Journal of the Senate

State of Indiana

114th General Assembly — First Regular Session

Twentieth Meeting Day — Tuesday Afternoon — February 15, 2005

The Senate convened at 1:31 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Pastor Randy Duncan, New Life Community Church of Hope, LaPorte, the guest of Senator Anita O. Bowser.

The Pledge of Allegiance to the Flag was led by Senator Bowser.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker ▶
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R. ▶
Lewis	Zakas

Roll Call 123: present 48; excused 2. [*Note: A ▶ indicates those who were excused*.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 29

Senate Concurrent Resolution 29, introduced by Senators Dillon and Meeks:

A CONCURRENT RESOLUTION urging the Department of Transportation to name State Road 105 the "Chris Schenkel Highway."

Whereas, Chris Schenkel was born in Bippus, Indiana, in 1923. Raised in Indiana, he graduated from Purdue University and has received an honorary degree from Ball State University;

Whereas, Chris Schenkel has enjoyed a broadcasting career that has taken him around the world and has spanned nearly five decades. During his career, he was the voice of New York Giants football for 13 years and hosted the Pro Bowlers' Tour for its entire 37-year run on ABC;

Whereas, Chris Schenkel also covered ten Olympic Games and virtually every major sporting event in America, including countless NBA games, boxing, horse racing, the Indianapolis 500, and major golf and tennis championships;

Whereas, Chris Schenkel has won nearly every award given in broadcasting, has been inducted into 14 different halls of fame, was the first ever inductee into the Auburn Cord Dusenberg Museum, is an honorary chieftan of both the Miami Nation of Indians and the Sac/Fox Tribe, is the 1992 Lifetime Achievement Emmy Award winner, and one of the 2003 Indiana Living Legends awarded by the Indiana Historical Society;

Whereas, Although Chris Schenkel's career took him around the world, his thoughts were never far from his Hoosier home. In 1972, after 20 years in Manhattan, Chris Schenkel and his family returned to Indiana and reside at Lake Tippecanoe; and,

Whereas, Chris Schenkel is a true Hoosier treasure and the pride of Bippus: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly recognizes the outstanding contribution of Chris Schenkel to the world of broadcasting, as well as his lifelong commitment to his Hoosier roots.

SECTION 2. That the Indiana General Assembly requests the Indiana Department of Transportation to name State Road 105 the "Chris Schenkel Highway."

SECTION 3. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to Chris and Fran Schenkel and the Commissioner of the Indiana Department of Transportation.

The resolution was read in full and referred to the Committee on Commerce and Transportation.

Senate Concurrent Resolution 31

Senate Concurrent Resolution 31, introduced by Senator Waterman:

A CONCURRENT RESOLUTION requesting the United States Congress to reauthorize the Abandoned Mine Land Fund (AML).

Whereas, Abandoned mine lands, mined before August 4, 1977, are a significant health and environmental hazard in southwest Indiana;

Whereas, The AML program eliminates these hazards by cleaning up problems at old mine sites including open mine shafts, orange streams, bad drinking water, and dangerous highwalls;

Whereas, The AML program has greatly benefitted Indiana by cleaning up over 800 abandoned mine sites at a cost of over $88,000,000;

Whereas, Over 400 abandoned mine sites still exist in southwest Indiana, and the estimated cost for cleanup of these abandoned mines is still over $50,000,000; and

Whereas, The AML program will expire June 30, 2005, unless the United States Congress acts to reauthorize the AML fund: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly urges the United States Congress to reauthorize the Abandoned Mine Land Fund.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to members of Indiana's congressional delegation.

The resolution was read in full and referred to the Committee on Natural Resources.

Senate Concurrent Resolution 32

Senate Concurrent Resolution 32, introduced by Senator Gard:

A CONCURRENT RESOLUTION urging Congress to pass multiple emissions legislation that will further reduce $S0_2$ and NO_x and regulate mercury from the nation's coal fired power plants.

Whereas, In Indiana, approximately 95% of the electricity generated comes from coal-fired power plants, second only to West Virginia, compared with 70% for all upper Midwest states and 52% for the nation;

Whereas, Indiana has the ninth lowest retail electricity prices in the nation, 24% below the national average, and Indiana utilities consume over 48 million tons of coal a year with over 32 million tons of that coal coming directly from Indiana mines;

Whereas, Since the Clean Air Act amendments of 1990, $S0_2$ emissions are down over 45%, and NO_x emissions have been reduced by roughly 70%;

Whereas, Over $3 billion have been spent to reduce emissions since 1990, and it is estimated an additional $3 billion will be spent to comply with new pending Environmental Protection Agency regulations; current law uses multiple regulatory approaches to reduce the same emissions, resulting in uncertainty;

Whereas, Despite the development of new regulations by the EPA to control $S0_2$, NO_x, and mercury, we anticipate a protracted court battle before any final implementation, creating uncertainty for the states and utilities, and we anticipate that states will be increasingly tempted to point fingers upwind to secure emission reductions from sources outside their economic or geographic boundaries;

Whereas, Using the NO_x caps set in Clear Skies, Indiana utility NO_x emissions would be reduced by 60% in Phase I and 70% in Phase II based on actual 2003 levels; using EPA projections, all 24 counties out of attainment now should be in attainment for ozone by the first phase in 2010;

Whereas, Under the new fine particles nonattainment designations of January 2005, 14 full counties and five partial counties in Indiana were labeled as nonattainment; with the SO_2 caps set in Clear Skies, Indiana utility SO_2 emissions would be reduced by 69% in Phase I and 79% in Phase II, again based on actual 2003 levels;

Whereas, Using projections from EPA for the impact of Clear Skies, all counties in Indiana should be in attainment for fine particles by Phase I in 2010;

Whereas, Another benefit that a multiple emissions bill will provide is mercury reductions, enabling utilities to integrate all three emissions reductions required under Clear Skies to achieve even more significant reductions and cost savings than experienced from the Acid Rain title in the 1990 Clean Air Act Amendments, which minimizes the financial impact to consumers;

Whereas, A phased-in reduction over a reasonable period will provide the appropriate time needed to build scrubbers, SCRs, and particulate controls, helping to achieve a large portion of mercury reductions; this approach also provides the time needed to test new mercury specific controls that are necessary to meet the more stringent Phase II cap;

Whereas, These reductions are not cost free; therefore, we need to ensure that the caps are achievable; and

Whereas, The Indiana General Assembly urges the United States Congress to work to make multiple emissions legislation achievable and balanced and to enact federal legislation now. Do not disadvantage Indiana coal or the economies that thrive on that industry: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That multiple emissions legislation would replace existing piecemeal regulation that is unnecessarily costly and is frequently challenged in the courts. Utilities will gain business certainty and emissions reductions will be made sooner and less expensively by relying on the proven market-based emissions trading to cut the cost of reducing emissions.

SECTION 2. That multiple emissions legislation is good for the environment, for the future of coal, and for the jobs of thousands of Hoosiers who depend on coal's use to generate affordable electricity.

SECTION 3. That the Indiana General Assembly urges the United States Congress to pass multiple emissions legislation that will further reduce $S0_2$ and NO_x and regulate mercury from the nation's coal fired power plants for the first time.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

Senate Concurrent Resolution 34

Senate Concurrent Resolution 34, introduced by Senator Gard:

A CONCURRENT RESOLUTION urging Congress to pass multiple emissions legislation that will further reduce $S0_2$ and NO_x and regulate mercury from the nation's coal fired power plants.

Whereas, In Indiana, approximately 95% of the electricity generated comes from coal-fired power plants, second only to West Virginia, compared with 70% for all upper Midwest states and 52% for the nation;

Whereas, Indiana has the ninth lowest retail electricity prices in the nation, 24% below the national average, and Indiana utilities consume over 48 million tons of coal a year with over 32 million tons of that coal coming directly from Indiana mines;

Whereas, Since the Clean Air Act amendments of 1990, $S0_2$ emissions are down over 45%, and NO_x emissions have been reduced by roughly 70%;

Whereas, Over $3 billion have been spent to reduce emissions since 1990, and it is estimated an additional $3 billion will be spent to comply with new pending Environmental Protection Agency regulations; current law uses multiple regulatory approaches to reduce the same emissions, resulting in uncertainty;

Whereas, Despite the development of new regulations by the EPA to control $S0_2$, NO_x, and mercury, we anticipate a protracted court battle before any final implementation, creating uncertainty for the states and utilities, and we anticipate that states will be increasingly tempted to point fingers upwind to secure emission reductions from sources outside their economic or geographic boundaries;

Whereas, Using the NO_x caps set in Clear Skies, Indiana utility NO_x emissions would be reduced by 60% in Phase I and 70% in Phase II based on actual 2003 levels; using EPA projections, all 24 counties out of attainment now should be in attainment for ozone by the first phase in 2010;

Whereas, Under the new fine particles nonattainment designations of January 2005, 14 full counties and five partial counties in Indiana were labeled as nonattainment; with the SO_2 caps set in Clear Skies, Indiana utility SO_2 emissions would be reduced by 69% in Phase I and 79% in Phase II, again based on actual 2003 levels;

Whereas, Using projections from EPA for the impact of Clear Skies, all counties in Indiana should be in attainment for fine particles by Phase I in 2010;

Whereas, Another benefit that a multiple emissions bill will provide is mercury reductions, enabling utilities to integrate all three emissions reductions required under Clear Skies to achieve even more significant reductions and cost savings than experienced from the Acid Rain title in the 1990 Clean Air Act Amendments, which minimizes the financial impact to consumers;

Whereas, A phased-in reduction over a reasonable period will provide the appropriate time needed to build scrubbers, SCRs, and particulate controls, helping to achieve a large portion of mercury reductions; this approach also provides the time needed to test new mercury specific controls that are necessary to meet the more stringent Phase II cap;

Whereas, These reductions are not cost free; therefore, we need to ensure that the caps are achievable; and

Whereas, The Indiana General Assembly urges the United States Congress to work to make multiple emissions legislation achievable and balanced and to enact federal legislation now. Do not disadvantage Indiana coal or the economies that thrive on that industry: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That multiple emissions legislation would replace existing piecemeal regulation that is unnecessarily costly and is frequently challenged in the courts. Utilities will gain business certainty and emissions reductions will be made sooner and less expensively by relying on the proven market-based emissions trading to cut the cost of reducing emissions.

SECTION 2. That multiple emissions legislation is good for the environment, for the future of coal, and for the jobs of thousands of Hoosiers who depend on coal's use to generate affordable electricity.

SECTION 3. That the Indiana General Assembly urges the United States Congress to pass multiple emissions legislation that will further reduce $S0_2$ and NO_x and regulate mercury from the nation's coal fired power plants for the first time.

SECTION 4. That copies of this resolution be transmitted by the Secretary of the Senate to the members of the Indiana Congressional delegation.

The resolution was read in full and referred to the Committee on Energy and Environmental Affairs.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill 327, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2000, and be the basis for taxes payable in 2003.

(b) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, ~~2007,~~ **2009,** and each ~~fourth~~ **fifth** year thereafter. Each reassessment under this subsection:

(1) shall be completed on or before March 1, of the ~~immediately following odd-numbered~~ year **that succeeds by two (2) years the year in which the general reassessment begins;** and

(2) shall be the basis for taxes payable in the year following the year in which the general assessment is to be completed.

(c) In order to ensure that assessing officials and members of each county property tax assessment board of appeals are prepared for a general reassessment of real property, the department of local government finance shall give adequate advance notice of the general reassessment to the county and township taxing officials of each county.".

Page 2, between lines 16 and 17, begin a new paragraph and insert:

"**(d) The department of local government finance must review and certify each annual adjustment determined under this section.**

SECTION 3. IC 6-1.1-4-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.7. (a) For purposes of this section, "assessor" means:**

(1) a township assessor; or

(2) a county assessor who assumes the responsibility for verifying sales under 50 IAC 21-3-2(b).

(b) The department of local government finance shall provide training to assessors and county auditors with respect to the verification of sales disclosure forms under 50 IAC 21-3-2.".

Page 2, between lines 32 and 33, begin a new paragraph and insert:

"SECTION 5. IC 6-1.1-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Subject to the approval of the department of local government finance and the requirements of section ~~18(a)~~ **18.5** of this chapter, a:

(1) township assessor; or

(2) group consisting of the county assessor and the township assessors in a county;

may employ professional appraisers as technical advisors. **A decision by one (1) or more assessors referred to in subdivisions (1) and (2) to not employ a professional appraiser as a technical advisor in a general reassessment is subject to approval by the department of local government finance.**

(b) After notice to the county assessor and all township assessors in the county, a majority of the assessors authorized to vote under this subsection may vote to:

(1) employ a professional appraiser to act as a technical advisor in the county during a general reassessment period;

(2) appoint an assessor or a group of assessors to:

(A) enter into and administer the contract with a professional appraiser employed under this section; and

(B) oversee the work of a professional appraiser employed under this section.

Each township assessor and the county assessor has one (1) vote. A decision by a majority of the persons authorized to vote is binding on the county assessor and all township assessors in the county. Subject to the limitations ~~contained~~ in section ~~18(a)~~ **18.5** of this chapter, the assessor or assessors appointed under subdivision (2) may contract with a professional appraiser employed under this section to supply technical advice during a general reassessment period for all townships in the county. A proportionate part of the appropriation to all townships for assessing purposes shall be used to pay for the technical advice.

(c) As used in this chapter, "professional appraiser" means an individual or firm that is certified under IC 6-1.1-31.7.".

Page 2, line 34, after "(a)" insert "**For calendar year 2005 and each preceding calendar year,**".

Page 2, line 34, delete "The" and insert "the".

Page 2, line 37, strike "is required to levy under this section in" and insert "**levies for**".

Page 2, strike lines 39 through 42.

Page 3, strike lines 1 through 6.

Page 3, between lines 6 and 7, begin a new paragraph and insert:

"**(b) For property taxes first due and payable in 2006 and each subsequent calendar year, the fiscal body of each county shall impose a property tax levy sufficient, after consideration of other funds available for the purpose, to pay costs referred to in section 28.5(a) of this chapter in the calendar year.**".

Page 3, line 7, strike "(d)" and insert "**(c)**".

Page 3, strike lines 15 through 22.

Page 3, line 23, delete "(f)" and insert "**(d)**".

Page 3, line 24, delete "permitted".

Page 3, line 25, delete "for the reassessment fund".

Page 3, line 33, delete "(g)" and insert "**(e)**".

Page 3, line 34, delete "(f)," and insert "**(d),**".

Page 3, line 41, after "chapter" insert "**and money from property taxes imposed under section 27.5(b) of this chapter**".

Page 4, line 21, after "fund" insert ".".

Page 4, line 21, strike "until the money is needed to pay general reassessment expenses.".

Page 4, line 23, after "fund." insert "**The county treasurer shall transfer the balance in the county property reassessment fund as of December 31, 2005, to the county general fund.**".

Page 4, strike lines 24 through 29.

Page 4, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 8. IC 6-1.1-4-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The department of local government finance shall periodically check the conduct of:

(1) a general reassessment of property;

(2) work required to be performed by local officials under 50 IAC 21; and

(3) other property assessment activities in the county, as determined by the department.

The department of local government finance may inform township assessors, county assessors, and the presidents of county councils in writing if its check reveals that the general reassessment ~~is~~ **or other property assessment activities are** not being properly conducted, **work required to be performed by local officials under 50 IAC 21 is not being properly conducted,** or ~~if~~ property assessments ~~under the general reassessment~~ are not being properly made.

(b) The failure of the department of local government finance to inform local officials under subsection (a) shall not be construed as an indication by the department that:

(1) the general reassessment ~~is~~ **or other property assessment activities are** being properly conducted;

(2) work required to be performed by local officials under 50 IAC 21 is being properly conducted; or ~~that~~

(3) property assessments ~~under the general reassessment~~ are being properly made.

(c) If the department of local government finance:

(1) determines under subsection (a) that a general reassessment or other assessment activities for a general reassessment year or any other year are not being properly conducted; and

(2) informs:

(A) the township assessor or each affected township;

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may order a state conducted assessment or reassessment under section 31.5 of this chapter.

(d) If the department of local government finance:

(1) determines under subsection (a) that work required to be performed by local officials under 50 IAC 21 is not being properly conducted; and

(2) informs:

(A) the township assessor or each affected township;

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may conduct the work or contract to have the work conducted.

(e) If the department of local government finance contracts to have work conducted under subsection (d), the department shall forward the bill for the services to the county and the county shall pay the bill under the same procedures that apply to county payments of bills for assessment or reassessment services under section 31.5 of this chapter.

SECTION 9. IC 6-1.1-4-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.5. (a) As used in this section, "assessment official" means any of the following:**

(1) A county assessor.

(2) A township assessor.

(3) A township trustee-assessor.

(b) As used in this section, "department" refers to the department of local government finance.

(c) If the department makes a determination and informs local officials under section 31(c) of this chapter, the department may order a state conducted assessment or reassessment in the county.

(d) If the department orders a state conducted assessment or reassessment in a county, the department shall assume the duties of the county's assessment officials. Notwithstanding sections 15 and 17 of this chapter, an assessment official in a county subject to an order issued under this section may not assess property or have property assessed for the assessment or general reassessment. Until the state conducted assessment or reassessment is completed under this section, the assessment or reassessment duties of an assessment official in the county are limited to providing the department or a contractor of the department the support and information requested by the department or the contractor.

(e) Before assuming the duties of a county's assessment officials, the department shall transmit a copy of the department's order requiring a state conducted assessment or reassessment to the county's assessment officials, the county fiscal body, the county auditor, and the county treasurer. Notice of the department's actions must be published one (1) time in a newspaper of general circulation published in the county. The department is not required to conduct a public hearing before taking action under this section.

(f) Township and county officials in a county subject to an order issued under this section shall, at the request of the department or the department's contractor, make available and provide access to all:

(1) data;
(2) records;
(3) maps;
(4) parcel record cards;
(5) forms;
(6) computer software systems;
(7) computer hardware systems; and
(8) other information;

related to the assessment or reassessment of real property in the county. The information described in this subsection must be provided at no cost to the department or the contractor of the department. A failure to provide information requested under this subsection constitutes a failure to perform a duty related to an assessment or a general reassessment and is subject to IC 6-1.1-37-2.

(g) The department may enter into a contract with a professional appraising firm to conduct an assessment or reassessment under this section. If a county or a township located in the county entered into a contract with a professional appraising firm to conduct the county's assessment or reassessment before the department orders a state conducted assessment or reassessment in the county under this section, the contract:

(1) is as valid as if it had been entered into by the department; and
(2) shall be treated as the contract of the department.

(h) After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (g), the department shall give notice to the taxpayer and the county assessor, by mail, of the amount of the assessment or reassessment. The notice of assessment or reassessment:

(1) is subject to appeal by the taxpayer under section 31.7 of this chapter; and
(2) must include a statement of the taxpayer's rights under section 31.7 of this chapter.

(i) The department shall forward a bill for services provided under a contract described in subsection (g) to the auditor of the county in which the state conducted reassessment occurs. The county shall pay the bill under the procedures prescribed by subsection (j).

(j) A county subject to an order issued under this section shall pay the cost of a contract described in subsection (g), without appropriation, from county funds. A contractor may periodically submit bills for partial payment of work performed under the contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

(1) submits to the department a fully itemized, certified bill in the form required by IC 5-11-10-1 for the costs of the work performed under the contract;
(2) obtains from the department:
(A) approval of the form and amount of the bill; and
(B) a certification that the billed goods and services have been received and comply with the contract; and
(3) files with the county auditor:
(A) a duplicate copy of the bill submitted to the department;
(B) proof of the department's approval of the form and amount of the bill; and
(C) the department's certification that the billed goods and services have been received and comply with the contract.

The department's approval and certification of a bill under subdivision (2) shall be treated as conclusively resolving the merits of a contractor's claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive. The county executive shall allow the claim, in full, as approved by the department, without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after the completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department. Compliance with this subsection constitutes compliance with IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim submitted under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(k) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department entered into under this section:

(1) The commissioner of the Indiana department of administration.
(2) The director of the budget agency.
(3) The attorney general.

(l) If county funds are insufficient to pay for an assessment or reassessment conducted under this section, the department may increase the tax rate and tax levy of the county to pay the cost and expenses related to the assessment or reassessment.

(m) The department or the contractor of the department shall use the land values determined under section 13.6 of this chapter for a county subject to an order issued under this section to the extent that the department or the contractor finds that the land values reflect the true tax value of land, as determined under this article and the rules of the department. If the department or the contractor finds that the land values determined for the county under section 13.6 of this chapter do not reflect the true tax value of land, the department or the contractor shall determine land values for the county that reflect the true tax value of land, as determined under this article and the rules of the department. Land values determined under this subsection shall be used to the same extent as if the

land values had been determined under section 13.6 of this chapter. The department or the contractor of the department shall notify the county's assessment officials of the land values determined under this subsection.

(n) A contractor of the department may notify the department if:

(1) a county auditor fails to:

(A) certify the contractor's bill;

(B) publish the contractor's claim;

(C) submit the contractor's claim to the county executive; or

(D) issue a warrant or check for payment of the contractor's bill;

as required by subsection (j) at the county auditor's first legal opportunity to do so;

(2) a county executive fails to allow the contractor's claim as legally required by subsection (j) at the county executive's first legal opportunity to do so; or

(3) a person or an entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts progress under this section for payment of the contractor's bill.

(o) The department, upon receiving notice under subsection (n) from a contractor of the department, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection (n)(1) or (n)(2); or

(B) a person or an entity acted or failed to act as described in subsection (n)(3); and

(2) provide to the treasurer of state the department's approval under subsection (j)(2)(A) of the contractor's bill with respect to which the contractor gave notice under subsection (n).

(p) Upon receipt of the department's approval of a contractor's bill under subsection (o), the treasurer of state shall pay the contractor the amount of the bill approved by the department from money in the possession of the state that would otherwise be available for distribution to the county, including distributions from the property tax replacement fund or distribution of admissions taxes or wagering taxes.

(q) The treasurer of state shall withhold from the money that would be distributed under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b), or any other law to a county described in a notice provided under subsection (n) the amount of a payment made by the treasurer of state to the contractor of the department under subsection (p). Money shall be withheld first from the money payable to the county under IC 6-1.1-21-4(b) and then from all other sources payable to the county.

(r) Compliance with subsections (n) through (q) constitutes compliance with IC 5-11-10.

(s) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (n) through (q). This subsection and subsections (n) through (q) must be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county subject to this section are paid. Nothing in this section shall be construed to create a debt of the state.

(t) The provisions of this section are severable as provided in IC 1-1-1-8(b).

SECTION 10. IC 6-1.1-4-31.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.6. (a) Subject to the other requirements of this section, the department of local government finance may:**

(1) negotiate an addendum to a contract referred to in section 31.5(g) of this chapter that is treated as a contract of the department; or

(2) include provisions in a contract entered into by the department under section 31.5(g) of this chapter;

to require the contractor of the department to represent the department in appeals initiated under section 31.7 of this chapter and to afford to taxpayers an opportunity to attend an informal hearing.

(b) The purpose of the informal hearing referred to in subsection (a) is to:

(1) discuss the specifics of the taxpayer's assessment or reassessment;

(2) review the taxpayer's property record card;

(3) explain to the taxpayer how the assessment or reassessment was determined;

(4) provide to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the assessment or reassessment;

(5) note and consider objections of the taxpayer;

(6) consider all errors alleged by the taxpayer; and

(7) otherwise educate the taxpayer about:

(A) the taxpayer's assessment or reassessment;

(B) the assessment or reassessment process; and

(C) the assessment or reassessment appeal process under section 31.7 of this chapter.

(c) Following an informal hearing referred to in subsection (b), the contractor shall:

(1) make a recommendation to the department of local government finance as to whether a change in the reassessment is warranted; and

(2) if recommending a change under subdivision (1), provide to the department a statement of:

(A) how the changed assessment or reassessment was determined; and

(B) the amount of the changed assessment or reassessment.

(d) To preserve the right to appeal under section 31.7 of this chapter, a taxpayer must initiate the informal hearing process by notifying the department of local government finance or its designee of the taxpayer's intent to participate in an informal hearing referred to in subsection (b) not later than forty-five (45) days after the department of local government finance gives notice under section 31.5(h) of this chapter to taxpayers

of the amount of the reassessment.

(e) The informal hearings referred to in subsection (b) must be conducted:

(1) in the county where the property is located; and

(2) in a manner determined by the department of local government finance.

(f) The department of local government finance shall:

(1) consider the recommendation of the contractor under subsection (c); and

(2) if the department accepts a recommendation that a change in the assessment or reassessment is warranted, accept or modify the recommended amount of the changed assessment or reassessment.

(g) The department of local government finance shall send a notice of the result of each informal hearing to:

(1) the taxpayer;

(2) the county auditor;

(3) the county assessor; and

(4) the township assessor of the township in which the property is located.

(h) A notice under subsection (g) must:

(1) state whether the assessment or reassessment was changed as a result of the informal hearing; and

(2) if the assessment or reassessment was changed as a result of the informal hearing:

(A) indicate the amount of the changed assessment or reassessment; and

(B) provide information on the taxpayer's right to appeal under section 31.7 of this chapter.

(i) If the department of local government finance does not send a notice under subsection (g) not later than two hundred seventy (270) days after the date the department gives notice of the amount of the assessment or reassessment under section 31.5(h) of this chapter:

(1) the department may not change the amount of the assessment or reassessment under the informal hearing process described in this section; and

(2) the taxpayer may appeal the assessment or reassessment under section 31.7 of this chapter.

(j) The department of local government finance may adopt rules to establish procedures for informal hearings under this section.

(k) Payment for an addendum to a contract under subsection (a)(1) is made in the same manner as payment for the contract under section 31.5(i) of this chapter.

SECTION 11. IC 6-1.1-4-31.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.7. (a) As used in this section, "special master" refers to a person designated by the Indiana board under subsection (e).**

(b) The notice of assessment or reassessment under section 31.5(h) of this chapter is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance do not apply to an appeal under this subsection. The Indiana board may establish applicable procedures and time limitations under subsection (l).

(c) In order to appeal under subsection (b), the taxpayer must:

(1) participate in the informal hearing process under section 31.6 of this chapter;

(2) except as provided in section 31.6(i) of this chapter, receive a notice under section 31.6(g) of this chapter; and

(3) file a petition for review with the appropriate county assessor not later than thirty (30) days after:

(A) the date of the notice to the taxpayer under section 31.6(g) of this chapter; or

(B) the date after which the department may not change the amount of the assessment or reassessment under the informal hearing process described in section 31.6 of this chapter.

(d) The Indiana board may develop a form for petitions under subsection (c) that outlines:

(1) the appeal process;

(2) the burden of proof; and

(3) evidence necessary to warrant a change to an assessment or reassessment.

(e) The Indiana board may contract with, appoint, or otherwise designate the following to serve as special masters to conduct evidentiary hearings and prepare reports required under subsection (g):

(1) Independent, licensed appraisers.

(2) Attorneys.

(3) Certified level two Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).

(4) Other qualified individuals.

(f) Each contract entered into under subsection (e) must specify the appointee's compensation and entitlement to reimbursement for expenses. The compensation and reimbursement for expenses are paid from the county property reassessment fund.

(g) With respect to each petition for review filed under subsection (c), the special masters shall:

(1) set a hearing date;

(2) give notice of the hearing at least thirty (30) days before the hearing date, by mail, to:

(A) the taxpayer;

(B) the department of local government finance;

(C) the township assessor; and

(D) the county assessor;

(3) conduct a hearing and hear all evidence submitted under this section; and

(4) make evidentiary findings and file a report with the Indiana board.

(h) At the hearing under subsection (g):

(1) the taxpayer shall present:

(A) the taxpayer's evidence that the assessment or reassessment is incorrect;

(B) the method by which the taxpayer contends the assessment or reassessment should be correctly determined; and

(C) comparable sales, appraisals, or other pertinent information concerning valuation as required by the Indiana board; and

(2) the department of local government finance shall present its evidence that the assessment or reassessment is correct.

(i) The Indiana board may dismiss a petition for review filed under subsection (c) if the evidence and other information required under subsection (h)(1) is not provided at the hearing under subsection (g).

(j) The township assessor and the county assessor may attend and participate in the hearing under subsection (g).

(k) The Indiana board may:

(1) consider the report of the special masters under subsection (g)(4);

(2) make a final determination based on the findings of the special masters without:

(A) conducting a hearing; or

(B) any further proceedings; and

(3) incorporate the findings of the special masters into the board's findings in resolution of the appeal.

(l) The Indiana board may adopt rules under IC 4-22-2-37.1 to:

(1) establish procedures to expedite:

(A) the conduct of hearings under subsection (g); and

(B) the issuance of determinations of appeals under subsection (k); and

(2) establish deadlines:

(A) for conducting hearings under subsection (g); and

(B) for issuing determinations of appeals under subsection (k).

(m) A determination by the Indiana board of an appeal under subsection (k) is subject to appeal to the tax court under IC 6-1.1-15.

SECTION 12. IC 6-1.1-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Except as provided in subsection (b), before an owner of real property demolishes, structurally modifies, or improves it at a cost of more than five hundred dollars ($500) for materials or labor, or both, the owner or the owner's agent shall file with the county assessor in the county where the property is located an assessment registration notice on a form prescribed by the department of local government finance.

(b) If the owner of the real property, or the person performing the work for the owner, is required to obtain a permit from an agency or official of the state or a political subdivision for the demolition, structural modification, or improvement, the owner or the person performing the work for the owner is not required to file an assessment registration notice.

(c) Each state or local government official or agency shall, before the tenth day of each month, deliver a copy of each permit described in subsection (b) to the assessor of the county in which the real property to be improved is situated.

(d) Before the last day of each month, the county assessor shall distribute a copy of each assessment registration notice filed under subsection (a) or permit received under subsection (b) to the assessor of the township in which the real property to be demolished, modified, or improved is situated.

(e) A fee of five dollars ($5) shall be charged by the county assessor for the filing of the assessment registration notice. All fees collected by the county assessor:

(1) before January 1, 2006, shall be deposited in the county property reassessment fund; **and**

(2) after December 31, 2005, shall be deposited in the county general fund.

(f) A township or county assessor shall immediately notify the county treasurer if the assessor discovers property that has been improved or structurally modified at a cost of more than five hundred dollars ($500) and the owner of the property has failed to obtain the required building permit or to file an assessment registration notice.

(g) Any person who fails to:

(1) file the registration notice required by subsection (a); or

(2) obtain a building permit described in subsection (b);

before demolishing, structurally modifying, or improving real property is subject to a civil penalty of one hundred dollars ($100). The county treasurer shall include the penalty on the person's property tax statement and collect it in the same manner as delinquent personal property taxes under IC 6-1.1-23. However, if a person files a late registration notice, the person shall pay the fee, if any, and the penalty to the county assessor at the time the person files the late registration notice.

SECTION 13. IC 6-1.1-5.5-4.7, AS AMENDED BY P.L.1-2004, SECTION 10, AND AS AMENDED BY P.L.23-2004, SECTION 11, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) The assessment training **and administration** fund is established for the purpose of receiving fees deposited under section 4 of this chapter. Money in *the* fund may be used by:

(1) the department of local government finance to cover expenses incurred in the development and administration of programs for the training of assessment officials and employees of the department, including the examination and certification program required by IC 6-1.1-35.5; ~~The fund shall be administered by the treasurer of state.~~ **or**

(2) the Indiana board to:

(A) conduct appeal activities; or

(B) pay for appeal services.

~~(b) The expenses of administering the fund shall be paid from money in the fund.~~

~~(c)~~ **(b)** The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. ~~Interest that accrues from these investments shall be deposited into the fund.~~

~~(d)~~ **(c)** Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 14. IC 6-1.1-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. The Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund **or other funds available for assessment or reassessment purposes** under IC 6-1.1-4-27.5. The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(b) If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter.

(c) The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

(1) if the county or township official held a preliminary conference under section 1(f) of this chapter, indicated on the petition submitted under that section by the taxpayer and the official; and

(2) included in the county property tax assessment board of appeals' findings, record, and determination under section 2.1(c) of this chapter.

The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

(d) After the hearing the Indiana board shall give the petitioner, the township assessor, the county assessor, and the county auditor:

(1) notice, by mail, of its final determination;

(2) a copy of the form completed under subsection (c); and

(3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

(e) Except as provided in subsection (f), the Indiana board shall conduct a hearing not later than nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(f) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing not later than one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(g) Except as provided in subsection (h), the Indiana board shall make a determination not later than the later of ninety (90) days after the hearing or the date set in an extension order issued by the Indiana board.

(h) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall make a determination not later than the later of one hundred eighty (180) days after the hearing or the date set in an extension order issued by the Indiana board.

(i) Except as provided in subsection (n), the Indiana board may not extend the final determination date under subsection (g) or (h) by more than one hundred eighty (180) days. If the Indiana board fails to make a final determination within the time allowed by this subsection, the entity that initiated the petition may:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) petition for judicial review under section 5(g) of this chapter.

(j) A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon a preponderance of the evidence.

(k) The Indiana board may limit the scope of the appeal to the issues raised in the petition and the evaluation of the evidence presented to the county property tax assessment board of appeals in support of those issues only if all persons participating in the hearing required under subsection (a) agree to the limitation. A person participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.

(l) The Indiana board:

(1) may require the parties to the appeal to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and

(2) may require the parties to the appeal to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

(m) A party to a proceeding before the Indiana board shall provide to another party to the proceeding the information described in subsection (l) if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection (l).

(n) The county assessor may:

(1) appear as an additional party if the notice of appearance is filed before the review proceeding; or

(2) with the approval of the township assessor, represent the township assessor;

in a review proceeding under this section.

(o) The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection.

SECTION 15. IC 6-1.1-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Not later than fifteen (15) days after the Indiana board gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a final determination by the Indiana board under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the Indiana board. The Indiana board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The Indiana board has fifteen (15) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing not later than fifteen (15) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the Indiana board determines to rehear a final determination, the Indiana board:

(1) may conduct the additional hearings that the Indiana board determines necessary or review the written record without additional hearings; and

(2) shall issue a final determination not later than ninety (90) days after notifying the parties that the Indiana board will rehear the final determination.

If ~~of~~ the Indiana board fails to make a final determination within the time allowed under subdivision (2), the entity that initiated the petition for rehearing may take no action and wait for the Indiana board to make a final determination or petition for judicial review under subsection (g).

(b) A person may petition for judicial review of the final determination of the Indiana board regarding the assessment of that person's tangible property. The action shall be taken to the tax court under IC 4-21.5-5. Petitions for judicial review may be consolidated at the request of the appellants if it can be done in the interest of justice. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the property reassessment fund **or other funds available for assessment or reassessment purposes** under IC 6-1.1-4-27.5. In addition, the executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit. The department of local government finance may intervene in an action taken under this subsection if the interpretation of a rule of the department is at issue in the action. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original assessment determination under appeal under this section is a party to the review under this section to defend the determination.

(c) Except as provided in subsection (g), to initiate a proceeding for judicial review under this section, a person must take the action required by subsection (b) not later than:

(1) forty-five (45) days after the Indiana board gives the person notice of its final determination, unless a rehearing is conducted under subsection (a); or

(2) thirty (30) days after the Indiana board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the Indiana board to make a determination under this section.

(d) The failure of the Indiana board to conduct a hearing within the period prescribed in section 4(f) or 4(g) of this chapter does not constitute notice to the person of an Indiana board final determination.

(e) The county executive may petition for judicial review to the tax court in the manner prescribed in this section upon request by the county assessor or elected township assessor.

(f) If the county executive determines upon a request under this subsection to not appeal to the tax court:

(1) the entity described in subsection (b) that made the original determination under appeal under this section may take an appeal to the tax court in the manner prescribed in this section using funds from that entity's budget; and

(2) the petitioner may not be represented by the attorney general in an action described in subdivision (1).

(g) If the maximum time elapses for the Indiana board to give notice of its final determination under subsection (a) or section 4 of this chapter, a person may initiate a proceeding for judicial review by taking the action required by subsection (b) at any time after the maximum time elapses. If:

(1) a judicial proceeding is initiated under this subsection; and

(2) the Indiana board has not issued a determination;

the tax court shall determine the matter de novo.

SECTION 16. IC 6-1.1-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection ~~(i)~~ **(g) and subject to subsection (h),** the department shall not distribute under subsection (b) and section 10 of this chapter **a percentage determined by the department of** the money ~~attributable to the county's property reassessment fund~~ **that would otherwise be distributed to the county under subsection (b) and section 10 of this chapter** if:

(1) by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance;

(2) by the deadline under IC 36-2-9-20, the county auditor has not transmitted data as required under that section; ~~or~~

(3) the county assessor has not forwarded to the department of local government finance the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

(4) the county assessor has not forwarded to the department of local government finance in a timely manner sales disclosure forms under IC 6-1.1-5.5-3(b);

(5) local assessing officials have not provided information to the department of local government finance in a timely manner under IC 4-10-13-5(b);

(6) the county auditor has not paid a bill for services under IC 6-1.1-4-31.5 to the department of local government finance in a timely manner;

(7) the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b);

(8) the county has not established a parcel index numbering system under 50 IAC 12-15-1 in a timely

manner; or

(9) a township or county official has not provided other information to the department of local government finance in a timely manner as required by the department.

~~(f) Except as provided in subsection (i) if the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b), the state board or the department shall not distribute under subsection (b) and section 10 of this chapter a part of the money attributable to the county's property reassessment fund. The portion not distributed is the amount that bears the same proportion to the total potential distribution as the number of townships in the county for which data was not transmitted by October 1 as described in this section bears to the total number of townships in the county.~~

~~(g)~~ **(f) Except as provided in subsection (i),** money not distributed for the reasons stated in subsection ~~(c)(1) and (c)(2)~~ **(e)** shall be distributed to the county when

~~(1) the county auditor sends to~~ the department of local government finance ~~the certified statement required to be sent under IC 6-1.1-17-1; and~~

~~(2) the county assessor forwards to the department of local government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a);~~

~~with respect to which the failure to send or forward resulted in the withholding of the distribution under subsection (e).~~

~~(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).~~ **determines that the failure to:**

(1) provide information; or

(2) pay a bill for services;

has been corrected.

~~(i)~~ **(g)** The restrictions on distributions under ~~subsections~~ **subsection** (e) ~~and (f)~~ do not apply if the department of local government finance determines that

~~(1)~~ the failure ~~of:~~

~~(A) a county auditor to send a certified statement; or~~

~~(B) a county assessor to forward copies of all approved exemption applications;~~

~~as described in subsection (e); or~~

~~(2) the failure of an official to transmit data as described in subsection (f);~~

to:

(1) provide information; or

(2) pay a bill for services;

in a timely manner is justified by unusual circumstances.

(h) The department shall give the county auditor at least thirty (30) days notice in writing before withholding a distribution under subsection (e).

(i) Money not distributed for the reason stated in subsection (e)(6) may be deposited in the fund established by IC 6-1.1-5.5-4.7(a). Money deposited under this subsection is not subject to distribution under subsection (f).

SECTION 17. IC 6-1.1-31.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **Subject to section 3.5(e) of this chapter,** the department shall adopt rules under IC 4-22-2 to prescribe computer specification standards and for the certification of:

(1) computer operating systems;

(2) computer software;

(3) software providers;

(4) computer service providers; and

(5) computer equipment providers.

(b) The rules of the department shall provide for:

(1) the effective and efficient administration of assessment laws;

(2) the prompt updating of assessment data;

(3) the administration of information contained in the sales disclosure form, as required under IC 6-1.1-5.5; and

(4) other information necessary to carry out the administration of the property tax assessment laws.

(c) After December 31, 1998, **subject to section 3.5(e) of this chapter,** a county may contract only for computer software and with software providers, computer service providers, and equipment providers that are certified by the department under the rules described in subsection (a).

(d) The initial rules under this section must be adopted under IC 4-22-2 before January 1, 1998.

SECTION 18. IC 6-1.1-31.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) After December 31, 1998, **and until the system described in subsection (e) is implemented,** each county shall maintain a state certified computer system that has the capacity to:

(1) process and maintain assessment records;

(2) process and maintain standardized property tax forms;

(3) process and maintain standardized property assessment notices;

(4) maintain complete and accurate assessment records for the county; and

(5) process and compute complete and accurate assessments in accordance with Indiana law.

The county assessor with the recommendation of the township assessors shall select the computer system used by township assessors and the county assessor in the county except in a county with a township assessor elected under IC 36-6-5-1 in every township. In a county with an elected township assessor under IC 36-6-5-1 in every township, the elected township assessors shall select a computer system based on a majority vote of the township assessors in the county.

(b) All information on ~~the~~ **a** computer system **referred to in subsection (a)** shall be readily accessible to:

(1) township assessors;

(2) the county assessor;

(3) the department of local government finance; and

(4) members of the county property tax assessment board of appeals.

(c) The certified system **referred to in subsection (a)** used by the counties must be:

(1) compatible with the data export and transmission requirements in a standard format prescribed by the department of local government finance; ~~The certified system must be~~ **and**

(2) maintained in a manner that ensures prompt and accurate transfer of data to the department.

(d) All standardized property forms and notices on the certified computer system **referred to in subsection (a)** shall be maintained by the township assessor and the county assessor in an accessible location and in a format that is easily understandable for use by persons of the county.

(e) The department shall adopt rules before July 1, 2006, for the establishment of:

(1) a uniform and common property tax management system among all counties that:

(A) includes mass appraisal systems integrated with county auditor systems and county treasurer systems; and

(B) replaces the computer system referred to in subsection (a); and

(2) a schedule for implementation of the system referred to in subdivision (1) structured to result in the implementation of the system in all counties with respect to an assessment date:

(A) determined by the department; and

(B) specified in the rule.

(f) The department shall appoint an advisory committee to assist the department in the formulation of the rules referred to in subsection (e). The department shall determine the number of members of the committee. The committee:

(1) must include at least:

(A) one (1) township assessor;

(B) one (1) county assessor; and

(C) one (1) county auditor; and

(2) shall meet at times and locations determined by the department.

(g) Each member of the committee appointed under subsection (f) who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(h) Each member of the committee appointed under subsection (f) who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) The department shall report to the budget committee in writing the department's estimate of the cost of implementation of the system referred to in subsection (e).".

Page 4, line 36, before "may" insert "**in a county**".

Page 4, line 36, delete "before a" and insert "**with respect to property subject to property taxes in the county before the**".

Page 4, line 37, after "appeals" insert "**of that county**".

Page 4, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 20. IC 6-1.1-33.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) With respect to any township or county for any year, the department of local government finance may initiate a review to determine whether to order a special reassessment under this chapter. The review may apply to real property or personal property, or both.

(b) If the department of local government finance determines under subsection (a) of this chapter to initiate a review with respect to the real property within a township or county, or a portion of the real property within a township or county, the division of data analysis of the department shall determine for the real property under consideration and for the township or county the variance between:

(1) the total assessed valuation of the real property within the township or county; and

(2) the total assessed valuation that would result if the real property within the township or county were valued in the manner provided by law.

(c) If the department of local government finance determines under subsection (a) of this chapter to initiate a review with respect to personal property within a township or county, or a part of the personal property within a township or county, the division of data analysis of the department shall determine for the personal property under consideration and for the township or county the variance between:

(1) the total assessed valuation of the personal property within the township or county; and

(2) the total assessed valuation that would result if the personal property within the township or county were valued in the manner provided by law.

(d) The determination of the department of local government finance under section 2 or 3 of this chapter must be based on a statistically valid assessment ratio study.

(e) If a determination of the department of local government finance to order a special reassessment under this chapter is based on a coefficient of dispersion study, the department shall publish the coefficient of dispersion study for the township or county in accordance with IC 5-3-1-2(j).

(f) If:

(1) the variance determined under subsection (b) or (c) exceeds twenty percent (20%); and

(2) the department of local government finance determines after holding hearings on the matter that a special reassessment should be conducted;

the department shall contract for a special reassessment to be conducted to correct the valuation of the property.

(g) If the variance determined under subsection (b) or (c) is twenty percent (20%) or less, the department of local government finance shall determine whether to correct the valuation of the property under:

(1) IC 6-1.1-4-9 and IC 6-1.1-4-10; or

(2) IC 6-1.1-14.

(h) The department of local government finance shall give notice to a taxpayer, by individual notice or by publication at the discretion of the department, of a hearing concerning the department's intent to cause the assessment of the taxpayer's property to be adjusted under this section. The time fixed for the hearing must be at least ten (10) days after the day the notice is mailed or published. The department may conduct a single hearing under this section with respect to multiple properties. The notice must state:

(1) the time of the hearing;

(2) the location of the hearing; and

(3) that the purpose of the hearing is to hear taxpayers' comments and objections with respect to the department's intent to adjust the assessment of property under this chapter.

(i) If the department of local government finance determines after the hearing that the assessment of property should be adjusted under this chapter, the department shall:

(1) cause the assessment of the property to be adjusted;

(2) mail a certified notice of its final determination to the county auditor of the county in which the property is located; and

(3) notify the taxpayer as required under IC 6-1.1-14.

(j) A reassessment or adjustment may be made under this section only if the notice of the final determination is given to the taxpayer within the same period prescribed in IC 6-1.1-9-3 or IC 6-1.1-9-4.

(k) If the department of local government finance contracts for a special reassessment of property under this chapter, the department shall forward the bill for services of the reassessment contractor to the county auditor, and the county shall pay the bill from the county reassessment fund **or other funds available for assessment or reassessment purposes.**

SECTION 21. IC 6-1.1-35.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A county that is required to make a payment to an assessing official, a county assessor, or member of, and hearing officers for, the county property tax assessment board of appeals under this chapter must make the payment regardless of an appropriation. The payment may be made from the county's cumulative reassessment fund **or other funds available for assessment or reassessment purposes.**

SECTION 22. P.L.245-2003, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) Notwithstanding IC 6-1.1-5.5-4(a), a person filing a sales disclosure form under IC 6-1.1-5.5 with respect to a sale of real property that occurs:

(1) after December 31, 2003; and

(2) before January 1, ~~2006,~~ **2010;**

shall pay a fee of ten dollars ($10) to the county auditor.

(b) Notwithstanding IC 6-1.1-5.5-4(b) and IC 6-1.1-5.5-12(d), fifty percent (50%) of the revenue collected under:

(1) subsection (a); and

(2) IC 6-1.1-5.5-12;

for the period referred to in subsection (a) shall be deposited in the county sales disclosure fund established under IC 6-1.1-5.5-4.5. Ten percent (10%) of the revenue **collected before July 1, 2005,** shall be transferred to the treasurer of state for deposit in the assessment training **and administration** fund established under IC 6-1.1-5.5-4.7. Forty percent (40%) of the revenue **collected before July 1, 2005,** shall be transferred to the treasurer of state for deposit in the state general fund. **Fifty percent (50%) of the revenue collected after June 30, 2005, shall be transferred to the assessment training and administration fund established under IC 6-1.1-5.5-4.7.**

(c) The department of local government finance may provide training of assessment officials and employees of the department through the Indiana chapter of the International Association of Assessing Officers on various dates and at various locations in Indiana.

(d) This SECTION expires January 1, ~~2007.~~ **2010.**".

Page 4, line 40, after "Notwithstanding" insert "**subsection (b) or**".

Page 5, line 6, delete "." and insert "**that applied before the amendment of IC 6-1.1-4-4.5 by this act.**

(b) Notwithstanding 50 IAC 21-3-2(b), the department of local government finance shall notify each county assessor of a deadline for:

(1) the determination of annual adjustments in the county under 50 IAC 21-3-2 for the 2006 assessment date; and

(2) the submission of the annual adjustments to the department for review and certification under IC 6-1.1-4-4.5, as amended by this act.".

Page 5, line 7, delete "(b)" and insert "**(c)**".

Page 5, line 7, delete "2007." and insert "**2008.**

SECTION 24. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) As used in this SECTION, "taxpayer" means a nonprofit corporation that is an owner of land and improvements:

(1) that were granted an exemption under IC 6-1.1-10 from property taxes first due and payable in 2001;

(2) that were owned by a sorority and used by the sorority to carry out its purposes during the period relevant to the determination of exemption from property taxes under IC 6-1.1-10-24 for the assessment dates in 2002 and 2003;

(3) for which a property tax liability was imposed for property taxes first due and payable in 2003 and 2004 that in total exceeded sixty thousand dollars ($60,000); and

(4) that would have qualified for an exemption under IC 6-1.1-10-24 from property taxes first due and payable in 2003 and 2004 if the owner had complied with the filing requirements for the exemption in a timely manner.

(c) The land and improvements described in subsection (b) are exempt under IC 6-1.1-10-24 from property taxes first due and payable in 2003 and 2004, notwithstanding that the taxpayer failed to make a timely application for the exemption for those years.

(d) The taxpayer may file claims with the county auditor for a refund for the amounts paid toward property taxes on the land and improvements described in subsection (b) that were billed to the taxpayer for property taxes first due and payable in 2003 and 2004. The claim must be filed as set forth in IC 6-1.1-26-1(1) through IC 6-1.1-26-1(3). The claims must present sufficient facts for the county auditor to determine:

(1) whether the claimant meets the qualifications described in subsection (b); and

(2) the amount that should be refunded to the taxpayer.

(e) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the county auditor shall submit the claim under IC 6-1.1-26-3 to the county board of commissioners for review. The only grounds for disallowing the claim under IC 6-1.1-26-4 are that the claimant is not a person that meets the qualifications described in subsection (b) or that the amount claimed is not the amount due to the taxpayer. If the claim is allowed, the county auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION. The amount of the refund must equal the amount of the claim allowed. Notwithstanding IC 6-1.1-26-5, no interest is payable on the refund.

(f) This SECTION expires December 31, 2008.".

Renumber all SECTIONS consecutively.

(Reference is to SB 327 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

KENLEY, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill 421, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-9-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A contribution:

(1) authorized under subsection (c) or section 4 of this chapter;

(2) to a committee by a corporation or labor organization; and

(3) designated by that corporation or labor organization for disbursement to a specific candidate, central committee, or other regular party committee;

is subject to the limitations in section 4 of this chapter.

(b) A corporation or labor organization may make a donation to cover any amount of administrative costs (as described in IC 3-5-2-15(e)) to a political action committee established and controlled by the corporation or labor organization. A donation made under this subsection is not considered a contribution or an expenditure by the corporation or labor organization.

(c) A corporation or labor organization may make a contribution to a political action committee if the contribution:

(1) does not exceed any of the limits prescribed under section 4 of this chapter; and

(2) is designated for disbursement to a specific candidate **category** or committee **category** listed under section 4 of this chapter.".

Page 8, line 16, after "expenditure" insert "**of at least one thousand dollars ($1,000)**".

Page 8, line 19, after "expenditure" insert "**of at least one thousand dollars ($1,000)**".

Page 8, line 40, after "expenditure" insert "**of at least one thousand dollars ($1,000)**".

Page 9, line 1, after "expenditure" insert "**of at least one thousand dollars ($1,000)**".

Renumber all SECTIONS consecutively.

(Reference is to SB 421 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 7, Nays 4.

LAWSON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Engrossed House Bill 1004, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 2, line 3, delete "taxable year" and insert "**tax period**".

Page 2, line 18, delete "taxable year" and insert "**tax period**".

Page 2, line 37, delete "taxable year" and insert "**tax period**".

Page 2, line 41, delete "taxable year" and insert "**tax period**".

Page 2, line 42, delete "taxable year." and insert "**tax period.**".

Page 3, between lines 8 and 9, begin a new paragraph and insert:

"**(d) For purposes of subsection (c), a liability for a listed tax is due and payable if:**

(1) the department has issued:

(A) an assessment of the listed tax and demand for payment under IC 6-8.1-5-3; or

(B) a demand notice for payment of the listed tax under IC 6-8.1-8-2;

(2) the taxpayer has filed a return or an amended return in which the taxpayer has reported a liability for the listed tax; or

(3) the taxpayer has filed a written statement of liability for the listed tax in a form that is satisfactory to the

department.".

Page 4, line 9, after "payable" insert "**, as determined under IC 6-8.1-3-17(d),**".

Page 4, line 9, delete "taxable year" and insert "**tax period**".

Page 5, between lines 15 and 16, begin a new paragraph and insert:

"**(d) The additional penalty provided by subsection (b) does not apply if the taxpayer:**

(1) has a legitimate hold on making the payment as a result of an audit, bankruptcy, protest, taxpayer advocate action, or another reason permitted by the department; or

(2) had established a payment plan with the department before the effective date of this section.".

(Reference is to HB 1004 as reprinted January 11, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

KENLEY, Chair

Report adopted.

MESSAGE FROM THE PRESIDENT PRO TEMPORE OF THE INDIANA STATE SENATE

Madam President and Members of the Senate: I have on February 15, 2005, signed the following House Enrolled Act: 1022.

ROBERT D. GARTON
President Pro Tempore

RESOLUTIONS ON SECOND READING

Senate Joint Resolution 7

Senator Hershman called up Senate Joint Resolution 7 for second reading. The resolution was read a second time by title.

SENATE MOTION
(Amendment 7–2)

Madam President: I move that Senate Joint Resolution 7 be amended to read as follows:

Page 1, line 7, after "Section 38." insert "**The power to define the terms and conditions of marriage and other domestic relationships shall rest exclusively with the General Assembly.**".

Page 1, line 7, delete "(a) Marriage in".

Page 1, delete lines 8 through 11.

(Reference is to SJR 7 as printed February 11, 2005.)

LANANE

The Chair ordered a division of the Senate. Yeas 12, nays 34.

Motion failed.

SENATE MOTION
(Amendment 7–3)

Madam President: I move that Senate Joint Resolution 7 be amended to read as follows:

Page 1, line 7, after "Section 38." delete "(a) Marriage in".

Page 1, line 7, after "Section 38." insert "**It is the policy of Indiana and its political subdivisions, that only a marriage between one man and one woman shall be valid or legally recognized as a marriage.**".

Page 1, delete lines 8 through 11.

(Reference is to SJR 7 as printed February 11, 2005.)

BRODEN

Motion failed. The bill was ordered engrossed.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolution 30 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bill 1653 and the same is herewith transmitted to the Senate for further action.

M. CAROLINE SPOTTS
Principal Clerk of the House

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 56, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety and to make an appropriation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-2-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is created, as a criminal justice agency of the state, a law enforcement training board to carry out the provisions of this chapter. The board members are to be selected as provided by this chapter. The board is composed of **the following members:**

(1) The deputy director of the division of preparedness and training of the department of homeland security. The deputy director serves as the chair of the board.

~~(1)~~ **(2)** The superintendent of the Indiana state police department. ~~who shall serve as ex officio chairman of the board;~~

(3) The chief of police of a consolidated city.

(4) One (1) county sheriff from a county with a population of at least one hundred thousand (100,000).

~~(2)~~ **(5)** One (1) county sheriff from a county of at least fifty

thousand (50,000) **but less than one hundred thousand (100,000)** population.

~~(3)~~ **(6)** One (1) county sheriff from a county of under fifty thousand (50,000) population.

~~(4)~~ **(7)** One (1) chief of police from a city of at least thirty-five thousand (35,000) population, **who is not the chief of police of a consolidated city.**

~~(5)~~ **(8)** One (1) chief of police from a city of at least ten thousand (10,000) but under thirty-five thousand (35,000) population.

~~(6)~~ **(9)** One (1) chief of police, police officer, or town marshal from a city or town of under ten thousand (10,000) population.

~~(7)~~ **(10)** One (1) prosecuting attorney.

~~(8)~~ **(11)** One (1) judge of a circuit or superior court exercising criminal jurisdiction.

~~(9)~~ **(12)** One (1) member representing professional journalism.

~~(10)~~ **(13)** One (1) member representing the medical profession.

~~(11)~~ **(14)** One (1) member representing education.

~~(12)~~ **(15)** One (1) member representing business and industry.

~~(13)~~ **(16)** One (1) member representing labor. ~~and~~

~~(14)~~ **(17)** One (1) member representing Indiana elected officials of counties, cities, and towns.

(b) The following members constitute an advisory council to assist the members of the ~~law enforcement training~~ board in an advisory, nonvoting capacity:

(1) The special agent in charge of the Federal Bureau of Investigation field office covering the state of Indiana, subject to the agent's approval to serve in such capacity.

(2) The attorney general of Indiana.

~~(3) The administrative director of the Indiana commission on forensic sciences.~~

(3) One (1) member representing forensic science, to be appointed by the governor.

(4) One (1) member representing theology, to be appointed by the governor.

(5) The director of the law enforcement division of the department of natural resources.

SECTION 2. IC 5-14-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

(1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or

(2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(b) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(c) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

(d) This subsection applies to a board, a commission, a department, a division, a bureau, a committee, an agency, an office, an instrumentality, or an authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state. If an agency receives a request to inspect or copy a record that the agency considers to be excepted from disclosure under section 4(b)(19) of this chapter, the agency may consult with the counterterrorism and security council established ~~under IC 4-3-20.~~ **by IC 10-19-8-1.** If an agency denies the disclosure of a record or a part of a record under section 4(b)(19) of this chapter, the agency or the counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening the public safety.

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public agency must notify each person who supplied any part of the public record at issue:

(1) that a request for release of the public record has been denied; and

(2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

(f) The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

(g) If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because

the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

(h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

(i) In any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(j) A court shall expedite the hearing of an action filed under this section.

SECTION 3. IC 5-22-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A purchasing agent may make a special purchase when there exists, under emergency conditions, a threat to public health, welfare, or safety.

(b) The counterterrorism and security council established by ~~IC 4-3-20-2~~ **IC 10-19-8-1** may make a purchase under this section to preserve security or act in an emergency as determined by the governor.

SECTION 4. IC 10-14-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. "Agency" refers to the ~~state emergency management agency~~ **department of homeland security** established by ~~IC 10-14-2-1.~~ **IC 10-19-2-1.**

SECTION 5. IC 10-14-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Director" refers to the **executive** director of the ~~agency~~ **department of homeland security** appointed under ~~IC 10-14-2-2.~~ **IC 10-19-3-1.**

SECTION 6. IC 10-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) For purposes of this section, "member of the military or public safety officer" means an individual who is **any of the following:**

(1) A member of a fire department (as defined in IC 36-8-1-8).

(2) An emergency medical service provider (as defined in IC 16-41-10-1).

(3) A member of a police department (as defined in IC 36-8-1-9).

(4) A correctional officer (as defined in IC 5-10-10-1.5).

(5) A state police officer.

(6) A county police officer.

(7) A police reserve officer.

(8) A county sheriff.

(9) A deputy sheriff.

(10) An excise police officer.

(11) A conservation enforcement officer.

(12) A town marshal.

(13) A deputy town marshal.

(14) A university policy officer appointed under IC 20-12-3.5.

(15) A probation officer.

(16) A paramedic.

(17) A volunteer firefighter (as defined in IC 36-8-12-2).

(18) An emergency medical technician or a paramedic working in a volunteer capacity.

(19) A member of the armed forces of the United States.

(20) A member of the Indiana Air National Guard. ~~or~~

(21) A member of the Indiana Army National Guard.

(b) For purposes of this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a member of the military or public safety officer, in the member of the military's or public safety officer's official capacity, is obligated or authorized by rule, regulation, condition of employment or services, or law to perform in the course of performing the member of the military's or public safety officer's duty.

(c) If a member of the military or public safety officer dies in the line of duty, a state flag shall be presented to:

(1) the surviving spouse;

(2) the surviving children if there is no surviving spouse; or

(3) the surviving parent or parents if there is no surviving spouse and there are no surviving children.

(d) The ~~state emergency management~~ agency shall administer this section. ~~and~~

(e) The director may adopt rules under IC 4-22-2 to implement this section.

SECTION 7. IC 10-14-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The ~~agency~~ **director** shall adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 8. IC 10-14-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The ~~agency~~ **director** may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 9. IC 10-15-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. "Department" refers to the ~~fire and building services~~ department **of homeland security** established by ~~IC 22-12-5-1.~~ **IC 10-19-2-1.**

SECTION 10. IC 10-15-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Executive director" refers to the executive director of the ~~Indiana emergency management, fire and building services, and public safety training~~

~~foundation established by IC 10-15-2-1.~~ **department of homeland security appointed under IC 10-19-3-1.**

SECTION 11. IC 10-15-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The foundation consists of ~~fifteen (15)~~ **nine (9)** voting members and four (4) nonvoting advisory members.

(b) The voting members shall be appointed by the governor. ~~The voting members are as follows:~~

~~(1) The executive director, subject to subsection (d).~~

~~(2) The state fire marshal.~~

~~(3) The state building commissioner.~~

~~(4) The deputy director of the state emergency management agency.~~

~~(5) The deputy director of the state emergency management agency for emergency medical services.~~

~~(6) Ten (10) individuals appointed by the governor.~~ Each Indiana congressional district must be represented by at least one (1) member who is a resident of that congressional district. Not more than five (5) of the members appointed under this subdivision may represent the same political party.

(c) The four (4) nonvoting advisory members are as follows:

(1) Two (2) members, one (1) from each political party, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.

(2) Two (2) members, one (1) from each political party, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.

~~(d) The executive director may vote for tie breaking purposes only.~~

~~(c)~~ **(d)** In the absence of a member, the member's vote may be cast by another member if the member casting the vote has a written proxy in proper form as required by the foundation.

SECTION 12. IC 10-15-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A quorum consists of ~~eight (8)~~ **five (5)** of the voting members of the foundation. ~~described in section 2(b)(2) through 2(b)(6) of this chapter.~~

(b) ~~One (1) of~~ The ~~following~~ **affirmative vote of at least five (5) voting members of the foundation** is necessary for the foundation to take action.

~~(1) An affirmative vote by at least eight (8) of the fifteen (15) members.~~

~~(2) A tie vote broken by the executive director.~~

SECTION 13. IC 10-15-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The term of each **voting** member ~~appointed under section 2(b)(6) of this chapter~~ is four (4) years.

(b) A member appointed to fill the unexpired term of a member serves until the end of the unexpired term.

(c) At the expiration of a member's term, the member may be reappointed if the member continues to ~~be a part of~~ **reside in** the represented ~~entity.~~ **congressional district.** A person is no longer a member when the ~~person~~ **individual** ceases to be a ~~part~~ **resident** of the represented ~~entity.~~ **congressional district.**

SECTION 14. IC 10-15-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The terms of the **voting** members ~~appointed under section 2(b)(6) of this chapter~~ begin on July 1.

SECTION 15. IC 10-15-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) At the foundation's first meeting after June 30 of each year, the voting members ~~appointed under section 2(b)(2) through 2(b)(6) of this chapter~~ shall select:

(1) one (1) of the voting members ~~who is not a state employee~~ to serve as chairperson; and

(2) one (1) of the voting members ~~who is not a state employee~~ to serve as vice chairperson.

(b) The vice chairperson shall exercise all the duties and powers of the chairperson in the chairperson's absence or disability.

SECTION 16. IC 10-19 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 19. DEPARTMENT OF HOMELAND SECURITY

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Council" refers to the counterterrorism and security council established by IC 10-19-8-1.

Sec. 3. "Department" refers to the department of homeland security established by IC 10-19-2-1.

Sec. 4. "Executive director" refers to the executive director of the department of homeland security appointed under IC 10-19-3-1.

Chapter 2. Department Established

Sec. 1. The department of homeland security is established.

Sec. 2. The department consists of the following divisions:

(1) The division of planning and assessment.

(2) The division of preparedness and training.

(3) The division of emergency response and recovery.

(4) The division of fire and building safety.

Chapter 3. Executive Director

Sec. 1. The governor shall appoint an individual to be the executive director of the department.

Sec. 2. The executive director:

(1) serves at the governor's pleasure; and

(2) is entitled to receive compensation in an amount set by the governor.

Sec. 3. The executive director shall do the following:

(1) Serve as the chief executive and administrative officer of the department.

(2) Serve as the director of the council.

(3) Administer the application for, and disbursement of, federal and state homeland security money for all Indiana state and local governments.

(4) Develop a single strategic plan for preparing and responding to homeland security emergencies in consultation with the council.

(5) Serve as the state coordinating officer under federal law for all matters relating to emergency and disaster mitigation, preparedness, response, and recovery.

(6) Use and allocate the services, facilities, equipment, personnel, and resources of any state agency, on the governor's behalf, as is reasonably necessary in the preparation for, response to, or recovery from an emergency or disaster situation that threatens or has occurred in Indiana.

Sec. 4. The executive director may appoint employees in the manner provided by IC 4-15-2 and fix their compensation, subject to the approval of the budget agency under IC 4-12-1-13.

Sec. 5. The executive director may delegate the executive director's authority to the appropriate department staff.

Sec. 6. For purposes of IC 4-21.5, the executive director is the ultimate authority for the department.

Sec. 7. (a) Except as provided in subsections (b) and (c), for purposes of IC 4-22-2, the executive director is the authority that adopts rules for the department.

(b) The Indiana emergency medical services commission is the authority that adopts rules under IC 16-31.

(c) The fire prevention and building safety commission is the authority that adopts rules under any of the following:

(1) IC 22-11.

(2) IC 22-12.

(3) IC 22-13.

(4) IC 22-14.

(5) IC 22-15.

Chapter 4. Division of Planning and Assessment

Sec. 1. The division of planning and assessment is established within the department.

Sec. 2. The division shall do the following:

(1) Develop a single strategic plan for preparing for and responding to homeland security emergencies.

(2) Assess state and local security needs.

(3) Disburse federal and state homeland security money for all Indiana state and local governments.

Sec. 3. The executive director shall appoint an individual as a deputy executive director to manage the division.

Chapter 5. Division of Preparedness and Training

Sec. 1. The division of preparedness and training is established within the department.

Sec. 2. The division shall administer the following:

(1) IC 10-15.

(2) All other state emergency management and response training programs.

Sec. 3. The executive director shall appoint an individual as a deputy executive director to manage the division.

Sec. 4. The deputy executive director appointed under section 3 of this chapter shall serve as the chair of the law enforcement training board under IC 5-2-1-3.

Chapter 6. Division of Emergency Response and Recovery

Sec. 1. The division of emergency response and recovery is established within the department.

Sec. 2. The division shall do the following:

(1) Administer IC 10-14.

(2) Administer the state's emergency operations functions during an emergency.

Sec. 3. The executive director shall appoint an individual as a deputy executive director to manage the division.

Chapter 7. Division of Fire and Building Safety

Sec 1. The division of fire and building safety is established within the department.

Sec. 2. The division shall administer the following:

(1) IC 16-31.

(2) IC 22-11.

(3) IC 22-12.

(4) IC 22-13.

(5) IC 22-14.

(6) IC 22-15.

Sec. 3. (a) The state fire marshal appointed under IC 22-14-2-2 shall do the following:

(1) Serve as the deputy executive director of the division.

(2) Administer the division.

(3) Serve as secretary for the fire prevention and building safety commission established by IC 22-12-2-1.

(b) The state fire marshal may not exercise any powers or perform any duties specifically assigned to either of the following:

(1) The fire prevention and building safety commission.

(2) The building law compliance officer.

Sec. 4. (a) The division shall employ a building law compliance officer.

(b) The building law compliance officer shall administer the building safety laws (as defined in IC 22-12-1-3).

Chapter 8. Counterterrorism and Security Council

Sec. 1. The counterterrorism and security council is established.

Sec. 2. (a) The council consists of the following members:

(1) The lieutenant governor.

(2) The executive director.

(3) The superintendent of the state police department.

(4) The adjutant general.

(5) The state health commissioner.

(6) The commissioner of the department of environmental management.

(7) The assistant commissioner of agriculture.

(8) The chairman of the Indiana utility regulatory commission.

(9) The commissioner of the Indiana department of transportation.

(10) The executive director of the Indiana criminal justice institute.

(11) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.

(12) The speaker of the house of representatives or his designee.

(13) The president pro tempore of the senate or his

designee.

(14) The chief justice of the supreme court.

(b) The members of the council under subsection (a)(12), (a)(13), and (a)(14) are nonvoting members.

(c) Representatives of the United States Department of Justice may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.

Sec. 3. The lieutenant governor shall serve as the chair of the council and in this capacity report directly to the governor.

Sec. 4. (a) The council shall do the following:

(1) Develop a strategy in concert with the department to enhance the state's capacity to prevent and respond to terrorism.

(2) Develop a counterterrorism plan in conjunction with relevant state agencies, including a comprehensive needs assessment.

(3) Review each year and update when necessary the plan developed under subdivision (2).

(4) Develop in concert with the department a counterterrorism curriculum for use in basic police training and for advanced in-service training of veteran law enforcement officers.

(5) Develop an affiliate of the council in each county to coordinate local efforts and serve as the community point of contact for the council and the United States Department of Homeland Security.

(6) Develop a plan for sharing intelligence information across multiple federal, state, and local law enforcement and homeland security agencies.

(b) The council shall report periodically its findings and recommendations to the governor.

Sec. 5. (a) The executive director may employ staff for the council, subject to the approval of the governor.

(b) The executive director shall serve as:

(1) the central coordinator for counterterrorism issues; and

(2) the state's point of contact for:

(A) the Office for Domestic Preparedness in the United States Department of Justice; and

(B) the United States Department of Homeland Security.

Sec. 6. (a) The expenses of the council shall be paid from appropriations made by the general assembly.

(b) Money received by the council as a grant or a gift is appropriated for the purposes of the grant or the gift.

Sec. 7. (a) Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 8. The affirmative votes of a majority of the voting members of the council are required for the council to take action on any measure, including final reports.

Sec. 9. (a) The council may receive confidential law enforcement information from the state police department, the Federal Bureau of Investigation, or other federal, state, or local law enforcement agencies.

(b) For purposes of IC 5-14-1.5 and IC 5-14-3, information received under subsection (a) is confidential.

Sec. 10. All state agencies shall cooperate to the fullest extent possible with the council and the executive director to implement this chapter.

Chapter 9. Public Safety Training

Sec. 1. As used in this chapter, "division" refers to the division of preparedness and training.

Sec. 2. As used in this chapter, "public safety service provider" or "provider" means an officer or employee of the state, an officer or employee of a governmental unit, or a volunteer who is engaged in at least one (1) of the following activities:

(1) Firefighting.

(2) Emergency management.

(3) Environmental management.

(4) Fire or building inspection.

(5) Emergency medical service.

(6) Any other public safety or homeland security activity that the division may designate.

Sec. 3. (a) The division shall develop and provide a training program for public safety service providers. The division shall offer only instruction that is more advanced than the basic training that is required for entry level into a provider's position. The division may not offer equipment oriented training.

(b) Participation in the training program is optional for a provider.

Sec. 4. Subject to section 3(b) of this chapter, the division shall establish and conduct advanced training programs in public safety and homeland security subjects on a voluntary enrollment basis. The division may offer courses to any public safety service provider that the division determines will benefit from the training.

Sec. 5. The division may establish training facilities at which the division provides programs. The division shall establish policies and procedures for the use of any training facilities that the division establishes.

Sec. 6. The division may recommend or conduct studies or surveys. The division may require reports from the chief executive of a governmental or volunteer provider organization for the purposes of this chapter.

Sec. 7. The division may originate, compile, and disseminate training materials to providers.

Sec. 8. The division may establish a system of issuing diplomas or certificates for persons who successfully complete the division's training programs.

Sec. 9. Upon request, the division may assist a provider organization in the development of training programs for the organization's personnel.

Sec. 10. The division may consult, cooperate, or contract with the law enforcement training board, a college or university, or any other individual or entity for the development and providing of courses of study for public safety service providers.

Sec. 11. (a) The division's facilities are available for the training of the following:

(1) The department's employees.

(2) Professional and volunteer firefighters.

(3) Emergency management volunteers.

(4) Environmental management department employees.

(5) Emergency medical technicians.

(6) Municipal and county building inspectors.

(7) Other public safety service providers that the division may designate.

(b) The division shall determine the terms and conditions for use of the division's facilities by the providers listed in subsection (a).

Sec. 12. The division may establish fee schedules and charges for the following:

(1) Items or services provided by the division under this chapter.

(2) Training conducted by the division under this chapter.

(3) Other division activities conducted under this chapter.

Sec. 13. The division may accept gifts and grants from any source and use them for the purposes of this chapter.

Sec. 14. The division may perform any other acts that are necessary or appropriate to implement this chapter.

Sec. 15. The executive director may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 17. IC 16-18-2-96 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 96. (a) "Director", for purposes of IC 16-19-13, refers to the director of the office of women's health established by IC 16-19-13.

(b) "Director", for purposes of IC 16-27, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-27.

(c) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-28, IC 16-29, and IC 16-30.

(d) "Director", for purposes of IC 16-31, refers to the **executive** director of the ~~state emergency management agency~~ **department of homeland security** established ~~under IC 10-14-2-1.~~ **by IC 10-19-2-1.**

(e) "Director", for purposes of IC 16-35-2, refers to the director of the program for children with special health care needs.

SECTION 18. IC 16-31-8.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "agency" refers to the ~~state emergency management agency~~ **department of homeland security** established by ~~IC 10-14-2-1.~~ **IC 10-19-2-1.**

SECTION 19. IC 22-12-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. "Department" refers to the ~~fire and building services~~ department **of homeland security established by IC 10-19-2-1.**

SECTION 20. IC 22-12-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The commission consists of ~~nineteen (19) voting~~ **eleven (11)** members, ~~and two (2) nonvoting members.~~ **nine (9) of whom shall be appointed by** the governor. ~~shall appoint seventeen (17) voting members to the commission, each to~~

(b) A commission member may serve a term of four (4) years.

(c) The state health commissioner or the commissioner's designee shall serve as a ~~voting~~ member of the commission, and the commissioner of labor or the commissioner's designee shall serve as a ~~voting~~ member of the commission. ~~The state fire marshal and the state building commissioner shall serve as nonvoting members of the commission.~~

~~(b)~~ **(d)** Each appointed member of the commission must have a recognized interest, knowledge, and experience in the field of fire prevention, fire protection, building safety, or other related matters.

~~(c)~~ The ~~appointed members of~~ **governor shall consider appointing individuals to** the commission ~~must include~~ **with experience in** the following:

(1) ~~One (1) member of~~ A paid fire department.

(2) ~~One (1) member of~~ A volunteer fire department.

(3) ~~One (1) individual in~~ The field of fire insurance.

(4) ~~One (1) individual in~~ The fire service industry.

(5) ~~One (1) individual in~~ The manufactured housing industry.

(6) ~~One (1) individual in~~ The field of fire protection engineering.

~~(7) One (1) professional engineer.~~

(7) Engineering.

(8) ~~One (1)~~ Building ~~contractor.~~ **contracting.**

(9) ~~One (1) individual in~~ The field of building one (1) and two (2) family dwellings.

~~(10) One (1) registered architect.~~

(10) Architecture.

(11) ~~One (1) individual engaged in~~ The design or construction of heating, ventilating, air conditioning, or plumbing systems.

(12) ~~One (1) individual engaged in~~ The design or construction of regulated lifting devices.

(13) ~~One (1) building commissioner or building inspector of a~~ City, town, or county **building inspection.**

(14) ~~One (1) individual in an industry that operates~~ Regulated amusement devices.

(15) ~~One (1) individual who is knowledgeable in~~ Accessibility requirements and ~~who has~~ personal experience with a disability.

(16) ~~One (1) individual who represents owners, operators, and installers of~~ Underground and aboveground motor fuel storage tanks and dispensing systems.

(17) ~~One (1) individual in~~ The masonry trades.

~~(d)~~ **(e)** Not more than ~~ten (10)~~ **five (5)** of the appointed members of the commission may be affiliated with the same political party.

~~(c)~~ **(f)** An appointed member of the commission may not serve more than two (2) consecutive terms. However, any part of an unexpired term served by a member filling a vacancy does not count toward this limitation.

SECTION 21. IC 22-13-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A county, city, or town may regulate regulated lifting devices if the unit's regulatory program is approved by the commission.

(b) A unit must submit its ordinances and other regulations that regulate lifting devices to the commission for approval. The ordinance or other regulation is not effective until it is approved by the commission. If any of these ordinances or regulations conflict with the commission's rules, the commission's rules supersede the local ordinance or other regulation.

(c) A unit may issue permits only to applicants who qualify under IC 22-15-5. However, the unit may specify a lesser fee than that set under IC 22-12-6-6(a)(7).

(d) A unit must inspect regulated lifting devices with inspectors who possess the qualifications necessary to be employed by the ~~office of the state~~ building ~~commissioner~~ **law compliance officer in the department of homeland security** as a regulated lifting device inspector.

SECTION 22. IC 22-13-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Upon the written request of an interested person, the ~~office of the state~~ building ~~commissioner~~ **law compliance officer in the department of homeland security** may issue a written interpretation of a building law. An interpretation issued by the ~~office of the state~~ building ~~commissioner~~ **law compliance officer in the department of homeland security** must be consistent with building laws enacted by the general assembly or adopted by the commission.

(b) The ~~office of the state~~ building ~~commissioner~~ **law compliance officer in the department of homeland security** may issue a written interpretation of a building law under subsection (a) whether or not the county or municipality has taken any action to enforce the building law.

SECTION 23. IC 22-13-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A written interpretation of a building law binds all counties and municipalities if the ~~office of the state~~ building ~~commissioner~~ **law compliance officer in the department of homeland security** publishes the written interpretation of the building law in the Indiana Register under IC 4-22-7-7(b). For purposes of IC 4-22-7-7, a written interpretation of a building law published by the ~~office of the state~~ building ~~commissioner~~ **law compliance officer in the department of homeland security** is considered adopted by an agency.

(b) A written interpretation of a building law published under subsection (a) binds all counties and municipalities until the earlier of the following:

(1) The general assembly enacts a statute that substantively changes the building law interpreted or voids the written interpretation.

(2) The commission adopts a rule under IC 4-22-2 to state a different interpretation of the building law.

(3) The written interpretation is found to be an erroneous interpretation of the building law in a judicial proceeding.

(4) The ~~office of the state~~ building ~~commissioner~~ **law compliance officer in the department of homeland security** publishes a different written interpretation of the building law.

SECTION 24. IC 22-14-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Office" refers to the ~~office of the state fire marshal.~~ **division of fire and building safety established by IC 10-19-7-1.**

SECTION 25. IC 22-15-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Office" refers to the ~~office of the state building commissioner.~~ **division of fire and building safety established by IC 10-19-7-1.**

SECTION 26. IC 4-3-20 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 27. IC 5-2-10.5 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 10-14-2-1; IC 10-14-2-2; IC 10-14-2-3.

SECTION 29. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 10-15-1-2; IC 10-15-1-7.

SECTION 30. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 22-12-5; IC 22-14-2-1; IC 22-14-2-3; IC 22-15-2-1; IC 22-15-2-2; IC 22-15-2-3; IC 22-15-2-4; IC 22-15-2-5.

SECTION 31. [EFFECTIVE JULY 1, 2005] **(a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.**

(b) After June 30, 2005, the following apply:

(1) The powers and duties of the counterterrorism and security council established by IC 4-3-20-2 are transferred to the council established by IC 10-19-8-1, as added by this act.

(2) A reference to the counterterrorism and security council established by IC 4-3-20-2 in a statute, a rule, or another document is considered a reference to the council established by IC 10-19-8-1, as added by this act.

(3) All the property of the counterterrorism and security council established by IC 4-3-20-2 is transferred to the department.

(4) An appropriation to the counterterrorism and security council established by IC 4-3-20-2, in effect after June 30, 2005, is transferred to the department.

(5) Personnel positions of the counterterrorism and security council established by IC 4-3-20-2 are transferred to the department.

(6) This subdivision applies to an individual employed by the counterterrorism and security council established by IC 4-3-20-2 on June 30, 2005:

(A) The individual is entitled to become an employee of the department on July 1, 2005.

(B) The individual is entitled to have the individual's service as an employee of the counterterrorism and security council before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the department.

(7) All leases and obligations entered into by the counterterrorism and security council established by IC 4-3-20-2 before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the department beginning July 1, 2005.

(c) This SECTION expires July 1, 2008.

SECTION 32. [EFFECTIVE JULY 1, 2005] **(a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.**

(b) As used in this SECTION, "board" refers to the public safety training board created by IC 5-2-10.5-5.

(c) As used in this SECTION, "division" refers to the division of preparedness and training of the department.

(d) As used in this SECTION, "institute" refers to the public safety institute established by IC 5-2-10.5-4.

(e) After June 30, 2005, the following apply:

(1) The board and the institute are abolished.

(2) The powers and duties of the board and the institute are transferred to the division.

(3) A reference to the board or the institute in a statute, a rule, or another document is considered a reference to the division.

(4) All the property of the board and the institute is transferred to the department.

(5) An appropriation to the board or the institute, in effect after June 30, 2005, is transferred to the department.

(6) Personnel positions of the board or the institute are transferred to the department.

(7) This subdivision applies to an individual employed by the board or the institute on June 30, 2005:

(A) The individual is entitled to become an employee of the department on July 1, 2005.

(B) The individual is entitled to have the individual's service as an employee of the board or the institute before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the department.

(8) All leases and obligations entered into by the board or the institute before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the department beginning July 1, 2005.

(f) This SECTION expires July 1, 2008.

SECTION 33. [EFFECTIVE JULY 1, 2005] **(a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.**

(b) As used in this SECTION, "agency" refers to the state emergency management agency established by IC 10-14-2-1.

(c) After June 30, 2005, the following apply:

(1) The agency is abolished.

(2) The powers and duties of the agency are transferred to the department.

(3) A reference to the agency in a statute, a rule, or another document is considered a reference to the department.

(4) All the property of the agency is transferred to the department.

(5) An appropriation to the agency, in effect after June 30, 2005, is transferred to the department.

(6) The following funds are transferred to the department:

(A) The emergency management contingency fund established by IC 10-14-3-28.

(B) The state disaster relief fund established by IC 10-14-4-5.

(C) The nuclear response fund established under IC 10-14-6.

(7) Personnel positions of the agency are transferred to the department.

(8) This subdivision applies to an individual employed by the agency on June 30, 2005:

(A) The individual is entitled to become an employee of the department on July 1, 2005.

(B) The individual is entitled to have the individual's service as an employee of the agency before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the department.

(9) All leases and obligations entered into by the agency before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the department beginning July 1, 2005.

(d) This SECTION expires July 1, 2008.

SECTION 34. [EFFECTIVE JULY 1, 2005] **(a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.**

(b) As used in this SECTION, "fire and building services department" refers to the department established by IC 22-12-5-1, before its repeal by this act.

(c) As used in this SECTION, "department of homeland security" refers to the department established by IC 10-19-2-1, as added by this act.

(d) After June 30, 2005, the following apply:

(1) The fire and building services department is abolished.

(2) The powers and duties of the fire and building services department are transferred to the department of

homeland security.

(3) A reference to the fire and building services department in a statute, a rule, or another document is considered a reference to the department of homeland security.

(4) All the property of the fire and building services department is transferred to the department of homeland security.

(5) An appropriation to the fire and building services department, in effect after June 30, 2005, is transferred to the department of homeland security.

(6) The following funds are transferred to the department of homeland security:

(A) The fire and building services fund established by IC 22-12-6-1.

(B) The statewide arson investigation financial assistance fund established by IC 22-12-6-2.

(C) The statewide fire and building safety education fund established by IC 22-12-6-3.

(D) The firefighting and emergency equipment revolving loan fund established by IC 22-14-5-1.

(7) Personnel positions of the fire and building services department are transferred to the department of homeland security.

(8) This subdivision applies to an individual employed by the fire and building services department on June 30, 2005:

(A) The individual is entitled to become an employee of the department of homeland security on July 1, 2005.

(B) The individual is entitled to have the individual's service as an employee of the fire and building services department before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the department of homeland security.

(9) All leases and obligations entered into by the fire and building services department before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the department of homeland security beginning July 1, 2005.

(e) This SECTION expires July 1, 2008.

SECTION 35. [EFFECTIVE JULY 1, 2005] **(a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.**

(b) As used in this SECTION, "division" refers to the division of fire and building safety of the department of homeland security established by IC 10-19-7-1, as added by this act.

(c) As used in this SECTION, "office" refers to the office of the state building commissioner established by IC 22-15-2-1, before its repeal by this act.

(d) After June 30, 2005, the following apply:

(1) The office is abolished.

(2) The powers and duties of the office are transferred to the division.

(3) A reference to the office in a statute, a rule, or another document is considered a reference to the division.

(4) All the property of the office is transferred to the division.

(5) An appropriation to the office, in effect after June 30, 2005, is transferred to the division.

(6) Personnel positions of the office are transferred to the division.

(7) This subdivision applies to an individual employed by the office on June 30, 2005:

(A) The individual is entitled to become an employee of the division on July 1, 2005.

(B) The individual is entitled to have the individual's service as an employee of the office before July 1, 2005, included for the purpose of computing all applicable employment rights and benefits with the department of homeland security.

(8) All leases and obligations entered into by the office before July 1, 2005, that are legal and valid on July 1, 2005, are obligations of the department of homeland security beginning July 1, 2005.

(e) This SECTION expires July 1, 2008.

SECTION 36. [EFFECTIVE JULY 1, 2005] **(a) The definitions in IC 10-19-1, as added by this act, apply throughout this SECTION.**

(b) As used in this SECTION, "commissioner" refers to the state building commissioner appointed under IC 22-15-2-2, before its repeal by this act.

(c) As used in this SECTION, "division" refers to the division of fire and building safety of the department of homeland security established by IC 10-19-7-1, as added by this act.

(d) After June 30, 2005, the following apply:

(1) The powers and duties of the commissioner are transferred to the division.

(2) A reference to the commissioner in a statute, a rule, or another document is considered a reference to the division.

(e) This SECTION expires July 1, 2008.

SECTION 37. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "commission" refers to the fire prevention and building safety commission established by IC 22-12-2-1.**

(b) Notwithstanding any other law, the term of office of a member of the commission serving on June 30, 2005, terminates July 1, 2005.

(c) The governor shall appoint the number of members of the commission provided by IC 22-12-2-2, as amended by this act.

(d) This SECTION expires July 1, 2009.

SECTION 38. [EFFECTIVE JULY 1, 2005] **(a) As used in this SECTION, "department" refers to the department of homeland security established by IC 10-19-2-1, as added by this act.**

(b) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by the establishment of the department by this act.

(c) This SECTION expires July 1, 2006.

(Reference is to SB 56 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Homeland Security, Utilities, and Public Policy.

GARTON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 66, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

SECTION 1. IC 12-15-11.5-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 30, 2004 (RETROACTIVE)]: **Sec. 3.1. (a) The office or the office's managed care contractor may not provide incentives or mandates to the primary medical provider to direct individuals described in section 2 of this chapter to contracted hospitals other than a hospital in a city where the patient resides.**

(b) The prohibition in subsection (a) includes methodologies that operate to lessen a primary medical provider's payment due to the provider's referral of an individual described in section 2 of this chapter to the hospital in the city where the individual resides.

(c) If a hospital's reimbursement for nonemergency services that are provided to an individual described in section 2 of this chapter is established by:

(1) statute; or

(2) an agreement between the hospital and the individual's managed care contractor;

the hospital may not decline to provide nonemergency services to the individual on the basis that the individual is enrolled in the Medicaid risk based program.

(d) A hospital that provides services to individuals described in section 2 of this chapter shall comply with eligibility verification and medical management programs negotiated under the hospital's most recent contract or agreement with the office's managed care contractor.

(e) Notwithstanding subsection (a), this section does not prohibit the office or the office's managed care contractor from directing individuals described in section 2 of this chapter to a hospital other than a hospital in a city where the patient resides if both of the following conditions exist:

(1) The patient is directed to a hospital other than a hospital in a city where the patient resides for the purpose of receiving medically necessary services.

(2) The type of medically necessary services to be received by the patient cannot be obtained in a hospital in a city where the patient resides.

(f) Actions taken after December 31, 2004, and before January 1, 2008, in accordance with this section are hereby declared legal and valid, as if IC 12-15-11.5-3 had not expired.

(g) This section expires December 31, 2007.

SECTION 2. IC 12-15-11.5-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 30, 2004 (RETROACTIVE)]: **Sec. 4.2. (a) A hospital that:**

(1) does not have a contract in effect with the office's managed care contractor; but

(2) previously contracted or entered into an agreement with the office's managed care contractor for the provision of services under the office's managed care program;

shall be reimbursed for services provided to individuals described in section 2 of this chapter at rates equivalent to the rates negotiated under the hospital's most recent contract or agreement with the office's managed care contractor, as adjusted for inflation by the inflation adjustment factor described in subsection (b). However, the adjusted rates may not exceed the established Medicaid rates paid to Medicaid providers who are not contracted providers in the office's managed health care services program.

(b) For each state fiscal year beginning after June 30, 2001, an inflation adjustment factor shall be applied under subsection (a) that is the average of the percentage increase in the medical care component of the Consumer Price Index for all Urban Consumers and the percentage increase in the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics, for the twelve (12) month period ending in March preceding the beginning of the state fiscal year.

(c) Actions taken after December 31, 2004, and before January 1, 2008, in accordance with this section are hereby declared legalized and valid, as if IC 12-15-11.5-4.1 had not expired.

(d) This section expires December 31, 2007.

SECTION 3. THE FOLLOWING ARE REPEALED [EFFECTIVE DECEMBER 31, 2004 (RETROACTIVE)] IC 12-15-11.5-3; IC 12-15-11.5-4.1.

SECTION 4. **An emergency is declared for this act.**

(Reference is to SB 66 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Health and Provider Services.

GARTON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 73, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-2.1-22-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 46. (a) Notwithstanding any other provision of this chapter, common and contract carriers and other carriers engaged in the transportation of passengers or household goods for hire, over regular or irregular routes, whether operating pursuant to a certificate or permit or as an exempt carrier under section 2.1(5) of this chapter, shall file with the department proof of financial responsibility in the form of surety bonds or policies of insurance or shall qualify as a self-insured. The minimum level of financial responsibility required shall be **as follows:**

(1) For contract carriers other than those described in subdivision (2), the minimum level established under ~~49 U.S.C. 10927(a)(1).~~ **49 USC 31138.**

(2) For contract carriers that transport railroad employees, at least five million dollars ($5,000,000).

(b) A person who violates this section commits a Class C infraction. However, the offense is a Class A misdemeanor if the person has a prior unrelated judgment for violating this section.

(c) In addition to any other penalty imposed upon a person for a conviction of a Class A misdemeanor under subsection (b), the law enforcement agency may impound the vehicles owned by the person. Unless the vehicle is impounded or forfeited under a law other than this section, the vehicle shall be released to the carrier when the carrier complies with this section.

(Reference is to SB 73 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Insurance and Financial Institutions.

GARTON, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 227, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-24-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Each application for a license or permit under this chapter must require the following information:

(1) The name, date of birth, sex, Social Security number, and mailing address and, if different from the mailing address, the residence address of the applicant. The applicant shall indicate to the bureau:

(A) which address the license or permit shall contain; **and**

(B) whether the Social Security number or another distinguishing number shall be the distinctive identification number used on the license or permit.

(2) Whether the applicant has been licensed as an operator, a chauffeur, or a public passenger chauffeur or has been the holder of a learner's permit, and if so, when and by what state.

(3) Whether the applicant's license or permit has ever been suspended or revoked, and if so, the date of and the reason for the suspension or revocation.

(4) Whether the applicant has been convicted of a crime punishable as a felony under Indiana motor vehicle law or any other felony in the commission of which a motor vehicle was used.

(5) Whether the applicant has a physical or mental disability, and if so, the nature of the disability and other information the bureau directs.

The bureau shall maintain records of the information provided under subdivisions (1) through (5).

SECTION 2. IC 9-24-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) A permit or license issued under this chapter must bear the distinguishing number assigned to the permittee or licensee, and must contain:

(1) the name of the permittee or licensee;

(2) the date of birth of the permittee or licensee;

(3) the mailing address or residence address of the permittee or licensee;

(4) a brief description of the permittee or licensee;

(5) if the permittee or licensee is less than eighteen (18) years of age at the time of issuance, the dates on which the permittee or licensee will become:

(A) eighteen (18) years of age; and

(B) twenty-one (21) years of age;

(6) if the permittee or licensee is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the permittee or licensee will become twenty-one (21) years of age; and

(7) except as provided in subsection (c), for the purpose of identification, a:

(A) photograph; or

(B) computerized image;

of the permittee or licensee;

and additional information that the bureau considers necessary, including a space for reproduction of the signature of the permittee or licensee. **If the permittee or licensee has not indicated to the bureau under section 2 of this chapter that the Social Security number shall be the distinguishing number to be used, the Social Security number may not be shown on the permit or license.**

(b) In carrying out this section, the bureau shall obtain the equipment necessary to provide the photographs and computerized images for permits and licenses as provided in subsection (a).

(c) The following permits or licenses do not require a photograph or computerized image:

(1) Temporary motorcycle learner's permit issued under IC 9-24-8.

(2) Motorcycle learner's permit issued under IC 9-24-8.

(3) Operator's license reissued under IC 9-24-12-6.

(d) The bureau may provide for the omission of a photograph or computerized image from any other license or permit if there is good cause for the omission.

(e) The information contained on the permit or license as required by subsection (a)(5) or (a)(6) for a permittee or licensee who is less than twenty-one (21) years of age at the time of issuance shall be printed perpendicular to the bottom edge of the permit or license.

SECTION 3. IC 9-24-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) An identification card must have the same dimensions and shape as a driver's license, but the card must have markings sufficient to distinguish the card from a driver's license.

(b) The front side of an identification card must contain the following information about the individual to whom the card is being issued:

(1) Full legal name.

(2) Mailing address and, if different from the mailing address, the residence address.

(3) Date of birth.

(4) Date of issue and date of expiration.

(5) Distinctive identification number or Social Security ~~account~~ number, whichever is requested by the individual. **If the individual has not requested that the Social Security number be the distinctive identification number to be used, the Social Security number may not be shown on the identification card.**

(6) Sex.

(7) Weight.

(8) Height.

(9) Color of eyes and hair.

(10) Reproduction of the signature of the individual identified.

(11) Whether the individual is blind (as defined in IC 12-7-2-21(1)).

(12) If the individual is less than eighteen (18) years of age at the time of issuance, the dates on which the individual will become:

(A) eighteen (18) years of age; and

(B) twenty-one (21) years of age.

(13) If the individual is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the individual will become twenty-one (21) years of age.

(14) Photograph or computerized image.

(c) The information contained on the identification card as required by subsection (b)(12) or (b)(13) for an individual who is less than twenty-one (21) years of age at the time of issuance shall be printed perpendicular to the bottom edge of the permit or license.

(Reference is to SB 227 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Commerce and Transportation.

GARTON, Chair

Report adopted.

RESOLUTIONS ON THIRD READING

Engrossed Senate Joint Resolution 10

Senator Lawson called up Engrossed Senate Joint Resolution 10 for third reading:

A JOINT RESOLUTION proposing an amendment to Article 2, Section 2, of the Constitution of the State of Indiana concerning elections.

Be it resolved by the General Assembly of the State of Indiana:

SECTION 1. The following amendment to the Constitution of the State of Indiana is proposed and agreed to by this, the One Hundred Fourteenth General Assembly of the State of Indiana, and is referred to the next General Assembly for reconsideration and agreement.

SECTION 2. ARTICLE 2, SECTION 2 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 2. (a) A citizen of the United States who is at least eighteen (18) years of age and who has been a resident of a precinct thirty (30) days immediately preceding an election may vote in that precinct at the election.

(b) A citizen may not be disenfranchised under subsection (a), if the citizen is entitled to vote in a precinct under subsection (c), **subsection (d),** or federal law.

(c) The General Assembly may provide that a citizen who ceases to be a resident of a precinct before an election may vote in a precinct where the citizen previously resided if, on the date of the election, the citizen's name appears on the registration rolls for the precinct.

(d) The General Assembly may provide that a citizen who:

(1) is the child of an individual who is a registered voter of Indiana; and

(2) currently resides outside the United States;

may vote in a precinct if the citizen meets all the qualifications in subsection (a) other than residence in a precinct in Indiana.

The resolution was read in full and placed upon its passage. The question was, Shall the resolution pass? Roll Call 124: yeas 47, nays 0. The resolution was declared passed. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Richardson and Thomas.

SENATE BILLS ON SECOND READING

Senate Bill 206

Senator Dillon called up Senate Bill 206 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 206–1)

Madam President: I move that Senate Bill 206 be amended to read as follows:

Page 3, line 2, delete "with" and insert "**within**".
Page 3, line 33, delete "continuing" and insert "**training:**".
Page 3, delete line 34.
(Reference is to SB 206 as printed February 11, 2005.)

DILLON

Motion prevailed. The bill was ordered engrossed.

Senate Bill 219

Senator Nugent called up Senate Bill 219 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 322

Senator Bray called up Senate Bill 322 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 322–1)

Madam President: I move that Senate Bill 322 be amended to read as follows:
Page 2, line 25, delete "shall" and insert "**may**".
Page 2, line 38, delete "shall" and insert "**may**".
Page 3, line 11, delete "shall" and insert "**may**".
(Reference is to SB 322 as printed February 11, 2005.)

FORD

The Chair ordered a division of the Senate. Yeas 15, nays 26.
Motion failed. The bill was ordered engrossed.

Senate Bill 400

Senator Clark called up Senate Bill 400 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Senate Bill 405

Senator Miller called up Senate Bill 405 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 405–1)

Madam President: I move that Senate Bill 405 be amended to read as follows:
Page 3, delete lines 9 through 19.
(Reference is to SB 405 as printed February 9, 2005.)

BREAUX

The Chair ordered a division of the Senate. Yeas 12, nays 28.
Motion failed. The bill was ordered engrossed.

Senate Bill 446

Senator Gard called up Senate Bill 446 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 446–1)

Madam President: I move that Senate Bill 446 be amended to read as follows:
Page 1, line 15, delete "less" and insert "**more**".
Page 4, between lines 31 and 32, begin a new paragraph and insert:
"SECTION 5. IC 36-9-23-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32. (a) Fees assessed against real property under this chapter or under any statute repealed by IC 19-2-5-30 constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (b) and (c), the lien attaches when notice of the lien is filed in the county recorder's office under section 33 of this chapter.
(b) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the municipality shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not ~~less~~ **more** than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.
(c) A lien attaches against real property occupied by someone other than the owner only if the utility notified the owner within twenty (20) days after the time the utility fees became sixty (60) days delinquent. However, the utility is required to give notice to the owner only if the owner has given the general office of the utility written notice of the address to which his notice is to be sent.
(d) The municipality shall release:
(1) liens filed with the county recorder after the recorded date of conveyance of the property; and
(2) delinquent fees incurred by the seller;
upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.".
Renumber all SECTIONS consecutively.
(Reference is to SB 446 as printed February 11, 2005.)

GARD

Motion prevailed.

SENATE MOTION
(Amendment 446–2)

Madam President: I move that Senate Bill 446 be amended to read as follows:
Page 1, delete lines 1 through 8, begin a new paragraph and insert:
"SECTION 1. IC 8-1.5-5-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 29. (a) Subsections (c), (d), and (e) do not apply to a city that before January 1, 2005,**

adopted an ordinance establishing procedures for the collection of unpaid user fees under this chapter through the enforcement of a lien.

(b) Fees assessed against real property under this chapter constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (c) and (d), the lien attaches when notice of the lien is filed in the county recorder's office under section 30 of this chapter.".

Page 1, line 9, delete "(b)" and insert "(c)".

Page 2, line 2, delete "(c)" and insert "(d)".

Page 2, line 8, delete "(d)" and insert "(e)".

(Reference is to SB 446 as printed February 11, 2005.)

GARD

Motion prevailed. The bill was ordered engrossed.

Senate Bill 518

Senator Weatherwax called up Senate Bill 518 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

SENATE MOTION

Madam President: I move that Engrossed Senate Bill 267, which is eligible for third reading, be returned to second reading for purposes of amendment.

JACKMAN

Motion prevailed.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 32

Senator Zakas called up Engrossed Senate Bill 32 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 125: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Ulmer and Alderman.

Engrossed Senate Bill 60

Senator Weatherwax called up Engrossed Senate Bill 60 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 126: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives T. Brown and Klinker.

Engrossed Senate Bill 88

Senator Bray called up Engrossed Senate Bill 88 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 127: yeas 42, nays 6. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Ayres and Kuzman.

Engrossed Senate Bill 89

Senator Jackman called up Engrossed Senate Bill 89 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 128: yeas 46, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Cherry and Bottorff.

Engrossed Senate Bill 139

Senator Meeks called up Engrossed Senate Bill 139 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 129: yeas 47, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsor: Representative Alderman.

Engrossed Senate Bill 171

Senator Lawson called up Engrossed Senate Bill 171 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Senator Lawson withdrew the call.

Engrossed Senate Bill 181

Senator Lanane called up Engrossed Senate Bill 181 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 130: yeas 43, nays 5. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Wolkins and Dvorak.

Engrossed Senate Bill 213

Senator M. Young called up Engrossed Senate Bill 213 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 131: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Friend and McClain.

Engrossed Senate Bill 233

Senator Drozda called up Engrossed Senate Bill 233 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 132: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Ulmer, Foley, and J. Smith.

REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: Pursuant to Senate Rule 65(b), I hereby report that Engrossed Senate Bill 171 which is currently eligible for third reading and was ordered to engrossment on February 14, 2005, has been returned from engrossment and reassigned to the Committee on Judiciary.

GARTON

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 259

Senator Landske called up Engrossed Senate Bill 259 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 133: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Foley and Kuzman.

Engrossed Senate Bill 296

Senator Meeks called up Engrossed Senate Bill 296 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 134: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Richardson and Behning.

Engrossed Senate Bill 303

Senator Clark called up Engrossed Senate Bill 303 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 135: yeas 47, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act?

There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Buell and Porter.

Engrossed Senate Bill 362

Senator Broden called up Engrossed Senate Bill 362 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 136: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Neese and Kromkowski.

Engrossed Senate Bill 373

Senator Bray called up Engrossed Senate Bill 373 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 137: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsor: Representative Borror.

Engrossed Senate Bill 379

Senator Weatherwax called up Engrossed Senate Bill 379 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 138: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Cherry and Crawford.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill 228, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-16-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division shall adopt rules under IC 4-22-2 to establish income and resource eligibility standards for patients whose care is to be paid under the hospital care for the indigent program.

(b) To the extent possible **and subject to this article,** rules adopted under this section must meet the following conditions:

(1) Be consistent with IC 12-15-21-2 and IC 12-15-21-3.

(2) Be adjusted at least one (1) time every two (2) years.

(c) The income and eligibility standards established under this section do not include any spend down provisions available under IC 12-15-21-2 or IC 12-15-21-3.

(d) In addition to the conditions imposed under subsection (b), rules adopted under this section must exclude a Holocaust victim's settlement payment received by an eligible individual from the income and eligibility standards for patients whose care is to be paid for under the hospital care for the indigent program.

SECTION 2. IC 12-16-4.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A hospital must file the application with the division not more than ~~thirty (30)~~ **forty-five (45)** days after the person has been ~~admitted to, or otherwise provided care by, the hospital,~~ **released or discharged from the hospital,** unless the person is medically unable and the next of kin or legal representative is unavailable.

SECTION 3. IC 12-16-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **Subject to this article,** the division shall adopt rules under IC 4-22-2 prescribing the following:

(1) The form of an application.

(2) The establishment of procedures for applications.

(3) The time for submitting and processing claims.

SECTION 4. IC 12-16-4.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A person may file an application directly with the division if the application is filed not more than ~~thirty (30)~~ **forty-five (45)** days after the person ~~was admitted to, or provided care by,~~ **has been released or discharged from** the hospital.

(b) Reimbursement for the costs incurred in providing care to an eligible person may only be made to the providers of the care.

SECTION 5. IC 12-16-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The division shall, upon receipt of an application of or for a person who was admitted to, or who was otherwise provided care by, a hospital, promptly investigate to determine the person's eligibility under the hospital care for the indigent program. **The division shall consider the following information obtained by the hospital regarding the person:**

(1) The person's income.

(2) The person's resources.

(3)The place of residence.

(4) The person's medical condition.

(5) Hospital care.

(6) Physician care.

The division may rely upon the hospital's information in determining the person's eligibility under the program.

(b) The division may choose not to interview the person if, based on the information provided to the division, the division determines that it appears that the person is eligible for the program. If the division determines that an interview of the person is necessary, the division shall allow the interview to occur via telephone with the person or the person's representative if the person is not able to participate in the interview.

(c) The county office located in:

(1) the county where the person is a resident; or

(2) the county where the onset of the medical condition that necessitated the care occurred if the person's Indiana residency or Indiana county of residence cannot be determined;

shall cooperate with the division in determining the person's eligibility under the program.

SECTION 6. IC 12-16-5.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Subject to subsection (b), if the division is unable after prompt and diligent efforts to verify information contained in the application that is reasonably necessary to determine eligibility, the division may deny assistance under the hospital care for the indigent program. **The expiration of the period specified in IC 12-16-6.5-1.5 is not a valid reason for denying assistance under the hospital care for the indigent program.**

(b) Before denying assistance under the hospital care for the indigent program, the division must provide the person and the hospital written notice of:

(1) the specific information or verification needed to determine eligibility; ~~and~~

(2) **the specific efforts undertaken to obtain the information or verification;**

(3) a copy of the statute or rule requiring the information or verification identified under subdivision (1); and

(4) the date on which the application will be denied if the information or verification is not provided within ten (10) days after the date of the notice.

SECTION 7. IC 12-16-6.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. Subject to IC 12-16-5.5-3(b), if the division fails to complete an investigation and determination of a person's financial and medical eligibility for the hospital care for the indigent program not later than forty-five (45) days after receipt of the application filed under IC 12-16-4.5, the person is considered to be financially and medically eligible for the program. The person's:**

(1) hospital;

(2) medical; and

(3) transportation;

services that are subject to the person's application must be covered under the program.

SECTION 8. IC 12-16-6.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. If the division

~~(1) fails to complete an investigation and determination of eligibility under the hospital care for the indigent program not more than forty-five (45) days after the receipt of the application filed under IC 12-16-4.5; or~~

~~(2)~~ fails or refuses to accept responsibility for payment of medical or hospital care under the hospital care for the indigent program, a person, physician, hospital, or transportation provider affected may appeal to the division not more than ninety (90) days after the receipt of the application filed under IC 12-16-4.5.

SECTION 9. IC 12-16-7.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The division shall pay the following **under IC 12-16-9.5 and** subject to the limitations in section 5 of this chapter:

(1) ~~The reasonable cost of medical~~ **Physician** care covered under IC 12-16-3.5-1 or IC 12-16-3.5-2.

(2) ~~The reasonable cost of~~ Transportation to the place ~~of treatment arising out of the medical care.~~ **where health care services covered under IC 12-16-3.5-1 or IC 12-16-3.5-2 are provided.**

SECTION 10. IC 12-16-7.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 2.5. (a) **This section applies to payable claims involving:**

(1) hospital services or items;

(2) physician care; or

(3) transportation services;

provided before July 1, 2004.

(b) Payable claims shall be segregated by state fiscal year.

~~(b)~~ **(c)** For purposes of this chapter, IC 12-15-15-9 **and** IC 12-15-15-9.5: ~~and IC 12-16-14.~~

(1) a "payable claim" is a claim for payment for physician care, hospital care, or transportation services under this chapter:

(A) that includes, on forms prescribed by the division, all the information required for timely payment;

(B) that is for a period during which the person is determined to be financially and medically eligible for the hospital care for the indigent program; and

(C) for which the payment amounts for the care and services are determined by the division; and

(2) a physician, hospital, or transportation provider that submits a payable claim to the division is considered to have submitted the payable claim during the state fiscal year during which the division determined, initially or upon appeal, the amount to pay for the care and services comprising the payable claim.

~~(c)~~ **(d)** The division shall promptly determine the amount to pay for the care and services comprising a payable claim.

SECTION 11. IC 12-16-7.5-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: **Sec. 2.7. (a) Except as provided under subsection (g), this section applies to state fiscal years beginning after June 30, 2004.**

(b) For purposes of this chapter, IC 12-15-15-9, and IC 12-15-15-9.5, the following definitions apply:

(1) "Amount" refers to:

(A) regarding a payable claim for physician care or transportation services, the amount under IC 12-16-9.5-1; and

(B) regarding a payable claim for a hospital service or an item, an amount equal to the amount the hospital would have received for a Medicaid recipient under the state's Medicaid fee for service reimbursement principles.

(2) "Financially and medically eligible" for a person who has submitted an application under IC 12-16-4.5 means that the person has met the following requirements:

(A) The income and resource requirements specified under this article for the hospital care for the indigent program.

(B) The medical conditions described in IC 12-16-3.5-1 or IC 12-16-3.5-2.

(3) "Payable claim" means a hospital service or item, physician care, or transportation service that is provided to a person who:

(A) applies for the hospital care for the indigent program under IC 12-16-4.5; and

(B) is determined to be financially and medically eligible for the program.

The term includes the services, items, and care that are subject to the application and that meet the types of care described in IC 12-16-3.5-1 and IC 12-16-3.5-2.

(c) Payable claims shall be segregated by state fiscal year.

(d) For purposes of this chapter, IC 12-15-15-9, and IC 12-15-15-9.5, a payable claim is attributed to the state fiscal year during which the services, items, or care is provided and that is:

(1) subject to the application; and

(2) the type of care described in IC 12-16-3.5-1 and IC 12-16-3.5-2, as determined by the division or under an appeal filed by the hospital that submitted the application.

(e) After:

(1) calculating the payment due to a physician or a transportation provider under section 5 of this chapter; and

(2) notifying the physician or transportation provider of the amount of the payment;

the division may delay payment to the physician or transportation provider under section 5 of this chapter until the division receives information requested by the division. The division may only request information from the physician or the transportation provider that is necessary for the division to make the payments due to the physician or the transportation provider under section 5 of this chapter.

(f) The division is not responsible for paying hospitals the amount due to the hospital under IC 12-15-15-9 and IC 12-15-15-9.5. The division may only request the following information from a hospital under this article:

(1) Hospital information that is necessary to determine a person's financial and medical eligibility for the hospital care for the indigent program.

(2) Hospital information that is necessary to make calculations required under section 4.5 of this chapter.

(g) Hospital services or items, physician care, or transportation services provided between July 1, 2003, and June 30, 2004, are governed by section 2.5 of this chapter.

SECTION 12. IC 12-16-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) For purposes of this section, **the following definitions apply:** ~~"payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).~~

(1) "Amount" refers to:

(A) regarding a payable claim for physician care or transportation services, the amount under IC 12-16-9.5-1; and

(B) regarding a payable claim for a hospital service or item, an amount equal to the amount the hospital would have received for a Medicaid recipient under the state's Medicaid fee for service reimbursement principles.

(2) "Financially and medically eligible" for a person who has submitted an application under IC 12-16-4.5 means that the person has met the following requirements:

(A) The income and resource requirements specified under this article for the hospital care for the indigent program.

(B) The medical conditions described in IC 12-16-3.5-1 or IC 12-16-3.5-2.

(3) "Payable claim" means a hospital service or item, physician care, or transportation services that are provided to a person who:

(A) applies for the hospital care for the indigent program under IC 12-16-4.5; and

(B) is determined to be financially and medically eligible for the program.

The term includes the services, items, and care that are subject to the application and that meet the types of care described in IC 12-16-3.5-1 and IC 12-16-3.5-2.

(b) For purposes of this section, a payable claim is attributed to the state fiscal year during which the services, items, or care is provided and that is:

(1) subject to the application; and

(2) the type of care described in IC 12-16-3.5-1 and IC 12-16-3.5-2, as determined by the division or under an appeal filed by the hospital that submitted the application.

~~(b)~~ **(c)** For taxes first due and payable in 2003, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2002; multiplied by

(2) the county's assessed value growth quotient determined under IC 6-1.1-18.5-2 for taxes first due and payable in 2003.

~~(c)~~ **(d)** For taxes first due and payable in 2004, 2005, ~~and~~ 2006, **2007, and 2008,** each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in the preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the ~~three~~ ~~(3)~~ **five (5)** calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the ~~three~~ ~~(3)~~ **five (5)** quotients computed in STEP TWO by three (3).

~~(d)~~ **(e)** Except as provided in subsection ~~(c).~~ **(f):**

(1) for taxes first due and payable in ~~2007,~~ **2009,** each county shall impose a hospital care for the indigent property tax levy equal to the average **of the** annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the state fiscal years beginning:

(A) July 1, 2003;

(B) July 1, 2004; ~~and~~

(C) July 1, 2005; ~~and~~

(D) July 1, 2006; and

(E) July 1, 2007; and

(2) for all subsequent annual levies under this section, the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the three (3) most recently completed state fiscal years.

~~(c)~~ **(f)** A county may not impose an annual levy under subsection ~~(d)~~ **(e)** in an amount greater than the product of:

(1) The greater of:

(A) the county's hospital care for the indigent property tax levy for taxes first due and payable in ~~2006,~~ **2008;** or

(B) the amount of the county's maximum hospital care for the indigent property tax levy determined under this subsection for taxes first due and payable in the immediately preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the ~~three~~ ~~(3)~~ **five (5)** calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the ~~three~~ ~~(3)~~ **five (5)** quotients computed in STEP TWO by ~~three (3).~~ **five (5).**

SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 12-16-11.5-1; IC 12-16-11.5-2.

SECTION 14. **An emergency is declared for this act.**

(Reference is to SB 228 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

GARTON, Chair

Report adopted.

ENGROSSED SENATE BILLS ON THIRD READING

Engrossed Senate Bill 422

Senator Clark called up Engrossed Senate Bill 422 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 139 48: yeas 0, nays . The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Frizzell and Kuzman.

Engrossed Senate Bill 465

Senator Steele called up Engrossed Senate Bill 465 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 140: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Gutwein and Hoffman.

Engrossed Senate Bill 481

Senator Lawson called up Engrossed Senate Bill 481 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 141: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Budak, Becker, and Crawford.

Engrossed Senate Bill 493

Senator Ford called up Engrossed Senate Bill 493 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 142: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Ruppel, Koch, Austin, and Pierce.

Engrossed Senate Bill 527

Senator Jackman called up Engrossed Senate Bill 527 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 143: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Lehe, Friend, and Goodin.

Engrossed Senate Bill 538

Senator Gard called up Engrossed Senate Bill 538 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 144: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsor: Representative Becker.

Engrossed Senate Bill 571

Senator Simpson called up Engrossed Senate Bill 571 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 145: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsors: Representatives Koch and Pierce.

Engrossed Senate Bill 607

Senator Meeks called up Engrossed Senate Bill 607 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 146: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsor: Representative Alderman.

Engrossed Senate Bill 638

Senator Ford called up Engrossed Senate Bill 638 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 147: yeas 45, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill. House sponsor: Representative T. Harris.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 35

Senate Concurrent Resolution 35, introduced by Senator Clark:

A CONCURRENT RESOLUTION honoring Ed Siegel for his successful coaching career.

Whereas, The accomplishments of former Pike High School basketball coach Ed Siegel were immortalized with the renaming of the Pike High School gymnasium in his honor;

Whereas, With this honor, Ed Siegel joins an elite group of Central Indiana coaches who have gyms or football stadiums named in their honor;

Whereas, Ed Siegel's coaching career spanned more than 30 years and included jobs at Stillwell, Southwestern, Booneville, and Pike High Schools;

Whereas, Ed Siegel's high school coaching career record is 458 - 298, including six sectional championships and two regional championships, and 343 - 229 during his 25 years at Pike High School;

Whereas, Coach Siegel won 22 championships as a varsity coach, received 14 coach of the year awards, won Pike's first conference, sectional, and regional championships, and coached four Indiana All-Stars;

Whereas, During his career, Coach Siegel has been recognized for his athletic accomplishments many times, including 11 varsity letters earned at Franklin College (in basketball, track, and cross country) and induction into the Franklin College athletic hall of fame. In 2004, Coach Siegel was given the Man of the Year award from the Indianapolis Old Timers Club, and he is currently on the Board of Directors of the Indiana Basketball Hall of Fame;

Whereas, Coach Siegel credits the support of his wife of 50 years, Carmen, and his children, Mark, Julie Ann, and David, for his success; and

Whereas, Ed Siegel has dedicated his life to teaching the young people of Indiana, and so it is fitting that the Indiana Senate acknowledge the accomplishments of this great coach: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the General Assembly wishes to congratulate Ed Siegel on his outstanding contributions to the Pike basketball program and to the Metropolitan School District of Pike Township. Mr. Siegel gave of himself unselfishly. He inspired his players to greater heights and instilled in them a passion for life.

SECTION 2. The Secretary of the Senate is hereby directed to transmit copies of this Resolution to Ed Siegel and his family; Mrs. Debra Jacobs, Pike High School principal; and Nathaniel Jones, Superintendent of the Metropolitan School District of Pike Township.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Hinkle and Orentlicher.

SENATE MOTION

Madam President: I move that Senator Lanane be added as coauthor of Senate Bill 571.

SIMPSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Kenley be added as coauthor of Engrossed Senate Bill 465.

STEELE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Howard be added as coauthor of Engrossed Senate Bill 373.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Howard be added as coauthor of Engrossed Senate Bill 379.

WEATHERWAX

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Merritt and Kenley be added as coauthors of Senate Concurrent Resolution 35.

CLARK

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Sipes, Bowser, Breaux, and Antich-Carr be added as coauthors of Engrossed Senate Bill 296.

MEEKS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Heinold be added as coauthor of Engrossed Senate Bill 267.

JACKMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Alting be added as coauthor of Engrossed Senate Bill 296.

MEEKS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Miller, Alting, and Clark be added as coauthors of Engrossed Senate Bill 213.

M. YOUNG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Drozda be added as coauthor of Engrossed Senate Bill 296.

MEEKS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Howard be added as coauthor of Engrossed Senate Bill 422.

CLARK

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as coauthor of Engrossed Senate Bill 32.

ZAKAS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Gard be added as second author of Engrossed Senate Bill 89.

JACKMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Simpson and Clark be added as coauthors of Senate Bill 324.

SERVER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Simpson be added as second author of Senate Bill 460.

SERVER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 56 and that Senator Wyss be substituted therefor.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 73 and that Senator Steele be substituted therefor.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 66 and that Senator Dillon be substituted therefor.

GARTON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Long and Ford be added as coauthors of Senate Concurrent Resolution 11.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move that Senate Concurrent Resolution 28 be withdrawn from further consideration by the Senate.

WATERMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Breaux be added as coauthor of Senate Bill 376.

LAWSON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Broden be added as second author of Senate Bill 498.

SERVER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Bill 512.

DROZDA

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Gard be added as second author of Senate Bill 578.

HERSHMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Rogers be added as second author and Senators Merritt, Craycraft, and Heinold be added as coauthors of Senate Bill 539.

M. YOUNG

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Clark be added as cosponsor of Engrossed House Bill 1004.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Thursday, February 17, 2005.

GARTON

Motion prevailed.

The Senate adjourned at 5:26 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate